

C O N F I D E N T I A L
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION
VOLUME I

LIGGETT GROUP, INC.)
PLAINTIFF)
-AGAINST-)
BROWN & WILLIAMSON TOBACCO)
CORPORATION)
DEFENDANT)
BROWN & WILLIAMSON TOBACCO) CIVIL ACTION
CORPORATION) NO. C 84-617-D
PLAINTIFF)
-AGAINST-)
LIGGETT GROUP, INC. AND)
GENERIC PRODUCTS CORPORATION,)
COUNTERCLAIM-DEFENDANTS)

* * * * *

DEPONENT: THOMAS W. WILSON
DATE: MAY 22, 1986
REPORTER: CATHERINE M. PATEN

* * * * *

TANNENBAUM, KUCHENBEROD & PATEN
COURT REPORTERS
THE WHITESTONE BUILDING
607 WEST MAIN STREET, SUITE L-3
LOUISVILLE, KENTUCKY 40202
(502) 587-1984

824 24282

I N D E X

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IT IS HEREBY STIPULATED AND AGREED, BY
(AND AMONG THE ATTORNEYS FOR THE RESPECTIVE PARTIES
HEREIN, THAT THE SEALING AND FILING OF THE WITHIN
DEPOSITION BE WAIVED; THAT SUCH DEPOSITION MAY BE
SIGNED AND SWORN TO BEFORE ANY OFFICER AUTHORIZED TO
ADMINISTER AN OATH, WITH THE SAME FORCE AND EFFECT AS
IF SIGNED AND SWORN TO BEFORE THE OFFICER BEFORE WHOM
SAID DEPOSITION IS TAKEN.

IT IS FURTHER STIPULATED AND AGREED
THAT ALL OBJECTIONS, EXCEPT AS TO FORM, ARE RESERVED TO
THE TIME OF TRIAL.

* * * * *

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APPEARANCES:

JAMES CONDREN
ATTORNEY FOR PLAINTIFF
WEBSTER & SHEFFIELD
ONE ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10020

WILLIAM PHILLIPS
ATTORNEY FOR DEFENDANT
PAUL, WEISS, RIFKIND,
WHARTON & GARRISON
345 PARK AVENUE
NEW YORK, NEW YORK 10154

ALSO PRESENT:

ART KORZEC

* * * * *

THE DEPOSITION OF THOMAS W. WILSON WAS TAKEN ON
BEHALF OF THE PLAINTIFF, BEFORE CATHERINE M. PATEN,
NOTARY PUBLIC FOR THE STATE OF KENTUCKY AT LARGE, IN
THE OFFICES OF WOODWARD, HOBSON & FULTON, 2500 FIRST
NATIONAL TOWER, LOUISVILLE, KENTUCKY, ON MAY 22, 1966,
AT 10:00 A.M. SAID DEPOSITION WAS TAKEN PURSUANT TO
NOTICE FOR PURPOSES OF DISCOVERY AND AS PROVIDED BY THE
FEDERAL RULES OF CIVIL PROCEDURE.

* * * * *

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1 THOMAS W. WILSON,
2 CALLED UPON ORAL EXAMINATION BY COUNSEL FOR THE
3 PLAINTIFF, AFTER HAVING PREVIOUSLY BEEN DULY SWORN, WAS
4 EXAMINED AND DEPOSED AS FOLLOWS:

5 EXAMINATION

6 BY MR. CONDREN:

7 Q. GOOD MORNING, MR. WILSON. MY NAME IS
8 JAMES CONDREN, AND I WILL BE CONTINUING YOUR DEPOSITION
9 TODAY AS PER THE AGREEMENT WITH YOUR COUNSEL, MR.
10 PHILLIPS.

11 YOU ARE AWARE YOU ARE STILL UNDER
12 OATH?

13 A. YES, SIR.

14 Q. MR. WILSON, WE'VE GOT QUITE A BIT TO
15 COVER TODAY SO LET'S TRY TO GET INTO IT AND PROCEED AS
16 EXPEDITIOUSLY AS WE CAN. I WOULD LIKE TO MARK FOR
17 IDENTIFICATION WILSON EXHIBIT 16, SINCE WE LEFT OFF AT
18 YOUR PRIOR SESSION WITH EXHIBIT 15.

19 AND THIS IS THE SUM-SUM SHEETS
20 PREPARED BY BROWN & WILLIAMSON FOR GENERICS FOR THE
21 YEARS 1984 AND 1985, DOCUMENT NUMBERS 91411, 43996,
22 44003, 914103 AND 04, 44033 AND 344404, AND 34449,
23 91400, 91397, 91383 AND 94, 91389, 182137, 182112,
24 182114 AND 182140.

25 JUST TAKE A LOOK AT THAT, MR. WILSON

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1 AND MR. PHILLIPS. I ONLY HAVE A FEW QUESTIONS ON THIS
2 DOCUMENT.

3 (WHEREUPON, WILSON DEPOSITION EXHIBIT
4 16 WAS MARKED FOR IDENTIFICATION.)

5 MR. PHILLIPS: I BELIEVE YOU SAID,
6 JIM, THESE WERE 1984, 1985. IT APPEARS ON THE FIRST
7 TIME THEY START WITH SUM-SUM SUMS FOR 1984.

8 MR. CONDREN: MY UNDERSTANDING IS THEY
9 ARE ALL THE SUM-SUMS THAT WERE CREATED FOR GENERICS.

10 MR. PHILLIPS: OKAY.

11 MR. CONDREN: APPARENTLY THERE WERE
12 NONE CREATED PRIOR TO THIS BECAUSE GENERICS WERE NOT
13 MANUFACTURED PRIOR TO THIS, BUT I'LL ASK MR. WILSON
14 ABOUT THAT.

15 Q. CAN YOU IDENTIFY ALL OR ANY PART OF
16 THIS DOCUMENT FOR ME, MR. WILSON?

17 A. YES, SIR. THIS IS A -- IT'S THE
18 VARIOUS SUMMARIES OF STANDARD VARIABLE MANUFACTURING
19 COSTS FOR THE GENERIC PRODUCTS WHICH ARE MANUFACTURED BY
20 BROWN & WILLIAMSON.

21 Q. THESE ARE ALSO REFERRED TO AS SUM-SUM
22 SHEETS?

23 A. YES, SIR.

24 Q. DO YOU KNOW WHETHER THESE ARE ALL THE
25 SUM-SUM SHEETS THAT WERE CREATED BY BROWN & WILLIAMSON

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1 IN 1984 AND 1985 FOR GENERICS?

2 A. NO, SIR. I DON'T KNOW WHETHER THAT'S
3 A COMPLETE SET OF 1984. THE RESPONSIBILITY OF PREPARING
4 THESE FALLS WITHIN THE COST DEPARTMENT GROUP.

5 Q. AND THAT IS NOW HEADED BY MISS
6 WILLINGHAM?

7 A. YES, SIR.

8 Q. AND HER PREDECESSOR IN THAT POSITION
9 WAS MR. FRICK?

10 A. YES, SIR.

11 Q. DO YOU KNOW WHEN MR. FRICK TURNED
12 OVER THAT JOB TO MISS WILLINGHAM?

13 A. I BELIEVE SOMETIME IN NOVEMBER OF
14 '84. I BELIEVE THAT'S CORRECT.

15 Q. CAN YOU TELL ME WHAT THE COLUMN
16 HEADED BRANCH REFERS TO?

17 A. IT REFERS TO THE BRANCH. THERE ARE 2
18 SETS OF STANDARDS. EACH BRANCH MANUFACTURING FACILITY
19 HAS ITS OWN SET OF STANDARDS. THAT'S JUST A
20 NOMENCLATURE THAT LINES UP WITH THE HEADING PETERSBURG
21 ON MACON.

22 Q. AND THE PERCENTS SPLIT COLUMN GIVES
23 YOU THE PERCENT OF MANUFACTURING FOR THOSE VARIOUS
24 BRANCHES FOR THAT TIME PERIOD?

25 A. THERE AGAIN, I'M NOT SURE ABOUT THE

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1 PERCENT SPLIT AS TO WHETHER IT'S THE ACTUAL OR WHETHER
2 IT'S AN ASSUMED MANUFACTURING.

3 Q. DO YOU KNOW WHERE THE STANDARD
4 MANUFACTURING COST FIGURES COME FROM THAT APPEAR ON THE
5 SUM-SUM SHEETS?

6 A. THEY ORIGINATE FROM INPUT FROM THE
7 BRANCHES WHICH THEN FLOWS THROUGH THE COST DEPARTMENT
8 GROUP.

9 Q. THE BRANCHES CREATE DOCUMENTS THAT
10 ARE CALLED STANDARD COST SHEETS; IS THAT CORRECT?

11 A. I BELIEVE THAT'S CORRECT.

12 Q. AND THAT INFORMATION IS INCORPORATED
13 BY THE COST DEPARTMENT INTO THE SUM-SUM SHEETS?

14 A. I BELIEVE THAT'S CORRECT.

15 Q. DO YOU KNOW WHO IN THE COST
16 DEPARTMENT SPECIFICALLY PREPARED THE SUM-SUM SHEETS?

17 A. NO, SIR.

18 Q. BUT YOU BELIEVE THEY WERE PREPARED BY
19 SOME EMPLOYEE OF BROWN & WILLIAMSON?

20 A. YES, SIR.

21 Q. IF YOU COULD JUST TURN TO THE AUGUST
22 1985 SUM-SUM SHEET, MR. WILSON.

23 MR. PHILLIPS: PAGE?

24 Q. 91389. IF A BRAND AND STYLE OF
25 GENERIC CIGARETTES APPEARS ON THIS PAGE, DOES THAT MEAN

1 THAT THAT BRAND AND STYLE OF GENERICS WAS PRODUCED THAT
2 MONTH?

3 A. I DON'T KNOW.

4 Q. DO YOU KNOW WHEN BROWN & WILLIAMSON
5 STOPPED PRODUCING GENERIC CIGARETTES AT ITS PETERSBURG
6 FACILITY?

7 A. NO, SIR.

8 Q. IF YOU WILL LOOK AT THE SEPTEMBER,
9 1985 SUM-SUM, MR. WILSON, PARTICULARLY AT THE WRAPPING
10 FIGURES FOR BLENDED 70 MILLIMETERS PLAIN AND 84
11 MILLIMETERS PLAIN, CAN YOU TELL ME WHAT CAUSED THE
12 DISPARITY BETWEEN THE WRAPPING FIGURES PER THOUSAND FOR
13 THOSE 2 STYLES OF GENERICS?

14 MR. PHILLIPS: OBJECTION TO FORM.

15 A. NO, SIR.

16 Q. CAN YOU TELL ME WHAT CAUSED THE
17 DISPARITY IN THE VARIABLE LABOR FIGURES FOR THOSE 2
18 STYLES AS OPPOSED TO THE OTHER STYLES OF BLENDED THAT
19 APPEAR ON THAT PAGE?

20 MR. PHILLIPS: OBJECTION.

21 A. NO, SIR.

22 Q. CAN YOU TELL ME --

23 MR. PHILLIPS: WHAT DO YOU MEAN THE
24 FACT -- YOU MEAN BY DISPARITY THE FACT THE FIGURES ARE
25 DIFFERENT?

1 Q. THE FACT THAT THE FIGURES FOR PLAINS
2 ARE AT LEAST 20 CENTS HIGHER PER THOUSAND THAN ANY OTHER
3 STYLE OF GENERICS.

4 Q MR. PHILLIPS: BUT THERE IS A VARIOUS
5 RANGE OF STYLES UNDERNEATH -- UNDERNEATH THOSE. I MEAN,
6 THEY DON'T ALL HAVE THE SAME STYLE. I JUST WANT TO MAKE
7 SURE --

8 Q MR. CONDREN: YOU MEAN THEY ALL DON'T
9 HAVE THE SAME VARIABLE RATE FIGURE?

10 Q MR. PHILLIPS: RIGHT.

11 Q MR. CONDREN: I DON'T THINK MR. WILSON
12 KNOWS THE ANSWER IN ANY EVENT.

13 Q MR. PHILLIPS: I JUST WANTED TO MAKE
14 SURE THE RECORD WAS CLEAR WHEN YOU SAY THE DISPARITY
15 BETWEEN THIS AND THE OTHERS --

16 Q I DIDN'T MEAN TO IMPLY ALL THE OTHERS
17 WERE THE SAME AND THOSE WERE THE ONLY ONES DIFFERENT.

18 IF YOU COMPARE THE AUGUST '85 SUM-SUM
19 SHEET, MR. WILSON, WITH THE SEPTEMBER '85 SUM-SUM SHEET,
20 YOU WILL SEE THAT THERE ARE NO LONGER VARIABLE
21 MANUFACTURING COSTS FIGURES PRESENTED IN SEPTEMBER FOR
22 BRANDED FILTER AND SUPERIOR STYLES OF GENERICS.

23 DO YOU KNOW WHY THAT IS, THAT THEY ARE
24 NO LONGER PRESENTED IN SEPTEMBER?

25 A. NO, SIR.

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1 Q. CAN YOU TELL ME, MR. WILSON, WHAT THE
2 DIFFERENCES ARE AMONG BRANDED BLENDED FILTER AND
3 SUPERIOR GENERICS?

4 A. I'M ONLY AWARE OF PACKAGING
5 DIFFERENCES, VISUALLY PACKAGING DIFFERENCES. I'M NOT
6 INVOLVED ENOUGH WITH THE PRODUCT SPECIFICATIONS TO BE
7 ABLE TO COMMENT ON THE COMPONENTS OF CIGARETTES.

8 Q. BUT YOU ARE AWARE THAT THERE ARE
9 WRAPPING DIFFERENCES AMONG THOSE VARIOUS STYLES OF
10 GENERICS?

11 A. VISIBLY, YES.

12 Q. THE PACKAGING OF THE CIGARETTES?

13 A. YES, YES.

14 Q. DO YOU KNOW WHEN BROWN & WILLIAMSON
15 STARTED PRODUCING FULL FLAVOR MENTHOL GENERICS, MR.
16 WILSON?

17 A. NO, SIR.

18 Q. DO YOU KNOW WHETHER BROWN & WILLIAMSON
19 CREATED A SUM-SUM SHEET IN DECEMBER OF 1985?

20 A. NO, SIR.

21 Q. YOU DON'T KNOW?

22 A. I DON'T KNOW.

23 Q. LET'S MARK FOR IDENTIFICATION WILSON
24 EXHIBIT 17, WHICH IS THE VARIABLE MARGIN SHEETS CREATED
25 BY BROWN & WILLIAMSON FOR GENERIC CIGARETTES FOR THE

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1 YEARS 1984 AND 1985, A DOCUMENT NUMBERS 91412, 91410,
2 91408, 169800, 169802, 91401 AND 02, 91398, 91395 AND
3 96, 182138 AND 39, 182113, 182115 AND 182141.

4 OFF THE RECORD.

5 (WHEREUPON, WILSON DEPOSITION EXHIBIT
6 17 WAS THEN MARKED FOR IDENTIFICATION.)

7 Q. BEFORE WE MOVE ON TO THIS EXHIBIT, MR.
8 WILSON, LET ME ASK YOU, DO YOU KNOW WHEN MISS
9 WILLINGHAM FIRST WENT TO WORK IN THE COST DEPARTMENT
10 FOR BROWN & WILLIAMSON?

11 A. IN WHAT CAPACITY?

12 Q. IN ANY CAPACITY.

13 A. I DON'T KNOW THAT.

14 Q. PRIOR TO HER BECOMING MANAGER OF THE
15 COST DEPARTMENT, WAS SHE A COST ANALYST?

16 A. YES.

17 Q. DO YOU KNOW HOW LONG SHE HELD THAT
18 POSITION?

19 A. NO, SIR.

20 Q. DID SHE HOLD THAT POSITION THROUGHOUT
21 1984?

22 A. NOVEMBER.

23 Q. WHAT WAS HER POSITION PRIOR TO
24 BECOMING A COST ANALYST FOR BROWN & WILLIAMSON?

25 A. I'M NOT SURE WHAT THAT TITLE WOULD BE.

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1 Q. DO YOU KNOW WHAT HER JOB DUTIES WERE?

2 A. SHE WORKED IN THE LEAF DEPARTMENT,
3 LEAF ACCOUNTING DEPARTMENT.

4 Q. DID SHE WORK FOR MR. KLEIN IN THAT
5 POSITION?

6 A. I BELIEVE SO.

7 Q. WAS MISS WILLINGHAM A COST ANALYST
8 FOR BROWN & WILLIAMSON IN JUNE OF 1984?

9 A. I CAN'T RECALL.

10 Q. IN HER POSITION AS COST ANALYST, DID
11 MISS WILLINGHAM PREPARE SUM-SUM SHEETS?

12 A. I DON'T KNOW.

13 Q. ALL RIGHT. LET'S MOVE ON TO WILSON
14 EXHIBIT 17. IF YOU COULD, JUST LOOK AT THAT LOOK AT THAT
15 FOR A MOMENT, MR. WILSON, AND MR. PHILLIPS.

16 CAN YOU IDENTIFY ALL OR ANY PART OF
17 THIS DOCUMENT FOR ME, MR. WILSON?

18 A. YES, SIR. THIS IS ONE OF THE
19 ADDITIONAL PAGES TO WHAT WE CALL THE SUM-SUM SHEETS.
20 IT'S THE LAST PAGE WHICH INCORPORATES A SUMMARY OF
21 VARIABLE MANUFACTURING COSTS, OTHER COSTS, AND DISCUSSES
22 VARIABLE MARGIN.

23 Q. HOW IS VARIABLE MARGIN CALCULATED ON
24 THESE SHEETS?

25 A. IT'S TAKING THE ASSUMED SELLING PRICE

1 LESS ALL THE VARIABLE COSTS TO ARRIVE AT VARIABLE
2 MARGIN.

3 Q. WHEN YOU SAID ASSUMED SELLING PRICE,
4 WHAT DID YOU MEAN BY THAT, MR. WILSON?

5 A. WHATEVER THE ASSUMED RATES ARE IN
6 EACH RESPECTIVE PAGE TO ARRIVE AT YOUR TOTAL VARIABLE
7 COST.

8 Q. ARE THESE NECESSARILY THE ACTUAL
9 SELLING PRICES THESE CIGARETTES ARE SOLD FOR?

10 MR. PHILLIPS: OBJECTION.

11 A. THESE ARE THE SELLING PRICES THAT ARE
12 REFLECTED AS THE CURRENT STANDARD WHICH SHOULD REFLECT
13 WHAT THE CURRENT SELLING PRICES ARE FOR THAT PERIOD.

14 Q. DO YOU RECEIVE A COPY OF THE SUM-SUM
15 SHEETS IN THE VARIABLE MARGIN SHEETS, MR. WILSON?

16 A. YES, SIR.

17 Q. DOES MR. BACON RECEIVE A COPY OF
18 THOSE SHEETS AS WELL?

19 A. I BELIEVE SO.

20 Q. DID MR. TUCKER RECEIVE THEM IN 1984 IN
21 HIS POSITION AS ASSISTANT CONTROLLER IN CHARGE OF THE
22 BUDGET AND COST DEPARTMENT?

23 MR. PHILLIPS: OBJECTION AS TO FORM.

24 A. YES, SIR, MR. TUCKER WOULD HAVE
25 RECEIVED THEM.

1 Q. BUT HE NO LONGER RECEIVED THEM
2 OBVIOUSLY WHEN HE LEFT THAT POSITION?

3 A. TO THE BEST OF MY KNOWLEDGE, THAT'S
4 CORRECT.

5 Q. DO YOU KNOW WHERE THE NUMBERS THAT
6 APPEAR IN THE COMBINED FACTORY VARIABLE MANUFACTURING
7 COST COLUMN COME FROM, THE FIRST COLUMN ON THE FAR LEFT?

8 A. THEY ARE CALCULATED NUMBERS BASED ON
9 THE PRECEDING PAGE AND THE WEIGHTING OF MANUFACTURE.

10 Q. DO THE NUMBERS THAT APPEAR IN THAT
11 COLUMN MATCH UP WITH THE NUMBERS THAT APPEAR IN THE
12 COMBINED VARIABLE MANUFACTURING COST COLUMN ON THE
13 SUM-SUM SHEETS?

14 A. USING 7184 AS AN EXAMPLE, THEY SEEM TO
15 MATCH UP.

16 MR. PHILLIPS: YOUR QUESTION REALLY IS
17 THOUGH WHETHER THEY ARE INTENDED TO MATCH UP AND NOT --

18 Q. I DIDN'T WANT YOU TO JUST LOOK AT
19 NUMBERS AND TELL ME WHETHER THEY ARE THE SAME, I WANT
20 YOU TO TELL ME WHAT'S YOUR UNDERSTANDING WHERE THOSE
21 NUMBERS CAME FROM THAT APPEAR IN THE FAR LEFT COLUMN
22 OFF THE VARIABLE MARGIN SHEETS.

23 A. MY UNDERSTANDING IS THEY SHOULD LINK.

24 Q. DO YOU KNOW WHO PREPARES THE VARIABLE
25 MARGIN SHEETS FOR BROWN & WILLIAMSON OR WHO PREPARED

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1 THESE SHEETS THAT ARE EXHIBIT 17?

2 A. IT'S MY UNDERSTANDING IT'S THE SAME
3 GROUP THAT PREPARES THE SUM-SUM SHEETS PREPARES THE
4 VARIABLE MARGIN SHEETS ALSO.

5 Q. ARE THOSE 2 TYPES OF SHEETS PREPARED
6 SIMULTANEOUSLY WITH EACH OTHER?

7 A. TO THE BEST OF MY KNOWLEDGE.

8 Q. CAN YOU TELL ME WHAT THE COLUMN LEAF
9 LIFO ADJUSTMENT ON THE VARIABLE MARGIN SHEETS IS MEANT
10 TO REFLECT, MR. WILSON?

11 A. NO, SIR.

12 Q. YOU HAVE NO UNDERSTANDING AT ALL AS
13 TO WHAT THAT MEANS?

14 A. NOT ENOUGH TO BE ABLE TO DISCUSS IT
15 INTELLIGENTLY.

16 Q. ARE YOU FAMILIAR WITH THE TERM MOVING
17 BOOK AVERAGE, MR. WILSON, AS IT'S EMPLOYED BY BROWN &
18 WILLIAMSON IN ITS COST ACCOUNTING?

19 MR. PHILLIPS: OBJECTION TO FORM.

20 A. I HAVE HEARD THE EXPRESSION MOVING
21 BOOK AVERAGE.

22 Q. DO YOU HAVE AN UNDERSTANDING WHAT THAT
23 EXPRESSION MEANS WHEN IT'S USED BY PEOPLE AT BROWN &
24 WILLIAMSON?

25 A. NOT A THOROUGH UNDERSTANDING, NO, SIR.

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1 Q. CAN YOU TELL ME WHAT THE EXCISE TAX
2 COLUMN ON THE VARIABLE MARGIN SHEETS IS USED TO
3 REPRESENT, MR. WILSON?

4 A. THAT'S THE STANDARD RATE PER M THAT
5 WE PAY FEDERAL EXCISE TAX ON ALL OF OUR CIGARETTES
6 MANUFACTURED.

7 Q. THAT'S PAID BY BROWN & WILLIAMSON?

8 A. YES, SIR.

9 Q. AT WHAT TIME IS THAT PAID BY BROWN &
10 WILLIAMSON?

11 A. THE SPECIFIC DATES OF PAYMENT I'M NOT
12 SURE OF.

13 Q. I DON'T MEAN SPECIFIC DATES, I MEAN AT
14 WHAT POINT IN THE MANUFACTURING AND SALE PROCESS IS
15 THAT TAX PAID BY BROWN & WILLIAMSON GENERALLY?

16 A. I BELIEVE IT'S UPON SHIPMENT OF
17 PRODUCT.

18 Q. SHIPMENT FROM THE MANUFACTURING
19 FACILITY TO THE CUSTOMER?

20 A. I BELIEVE SO. I'M NOT SURE,
21 POSITIVELY ABOUT THAT.

22 Q. DO YOU KNOW WHAT THE COLUMN FREIGHT
23 CARTAGE AND INSURANCE IS MEANT TO REPRESENT ON THE
24 VARIABLE MARGIN SHEETS, MR. WILSON?

25 A. BASICALLY THE FREIGHT AND INSURANCE

1 RELATED COSTS INCURRED BY BROWN & WILLIAMSON TO SHIP THE
2 PRODUCT TO THE DISTRIBUTION HOUSES OR GET IT TO OUR
3 CUSTOMERS.

4 Q. DO YOU KNOW HOW THOSE NUMBERS ARE
5 CALCULATED THAT APPEAR ON THE VARIABLE MARGIN SHEETS?

6 A. THE DETAILED MECHANICS OF HOW THEY ARE
7 CALCULATED, I'M NOT FAMILIAR WITH.

8 Q. DO YOU HAVE ANY GENERAL UNDERSTANDING
9 AS TO HOW THOSE NUMBERS ARE CALCULATED?

10 A. NOT ENOUGH TO BE ABLE TO DISCUSS THEM
11 IN DETAIL.

12 Q. DO YOU KNOW WHO CALCULATED THOSE
13 NUMBERS THAT APPEAR ON THE VARIABLE MARGIN SHEETS FOR
14 1984 AND 1985?

15 A. NO, SIR.

16 Q. ARE THERE ANY FREIGHT OR STORAGE
17 CHARGES CONTAINED UNDER THIS COLUMN THAT WERE INCURRED
18 PRIOR TO THE CIGARETTES BEING MADE-- EXCUSE ME, PRIOR
19 TO THE MANUFACTURING MATERIALS BEING MADE INTO
20 CIGARETTES?

21 A. NO.

22 MR. PHILLIPS: OBJECTION. GIVE ME
23 THAT ONE AGAIN.

24 (WHEREUPON, THE REPORTER THEN READ THE
25 RECORD.)

1 MR. PHILLIPS: I'M NOT SURE WHAT YOU
2 MEAN BY FREIGHT AND STORAGE BUT CHARGES --

3 Q. PRIOR TO MANUFACTURING MATERIALS BEING
4 INCORPORATED INTO CIGARETTES, ARE THERE FREIGHT AND
5 STORAGE CHARGES INCURRED FOR THOSE MATERIALS BEFORE THEY
6 ARE MADE INTO CIGARETTES?

7 A. I'M SURE THERE IS SOME FREIGHT AND
8 STORAGE COSTS INVOLVED WITH OUR RAW MATERIALS, YES.

9 Q. ARE THOSE FREIGHT AND STORAGE COSTS
10 INCORPORATED INTO FREIGHT, CARTAGE AND INSURANCE AS IT
11 APPEARS ON THE VARIABLE MARGIN SHEETS?

12 A. I DON'T KNOW.

13 Q. DOES BROWN & WILLIAMSON INCUR STORAGE
14 COSTS FOR LEAF THAT HAS TO BE AGED BEFORE IT CAN BE
15 MADE INTO CIGARETTES?

16 MR. PHILLIPS: WHAT DO YOU MEAN BY
17 INCUR, DOES IT EXPERIENCE STORAGE COST OR DOES IT HAVE
18 TO CHARGE THEM?

19 Q. DOES IT HAVE TO PAY STORAGE COSTS TO
20 ANYONE FOR STORING THE LEAF THAT IS IN THE PROCESS OF
21 BEING AGED?

22 A. I DON'T KNOW.

23 Q. CAN YOU TELL ME HOW THE NUMBERS IN
24 THE TOTAL VARIABLE COST COLUMN OF THE VARIABLE MARGIN
25 SHEETS ARE ARRIVED AT, MR. WILSON?

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1 A. IT'S JUST AN ACCUMULATION OF YOUR
2 COMBINED FACTORY VARIABLE MANUFACTURING COSTS AND THE --
3 PLUS THE LIFE, LEAF LIFO ADJUSTMENT, EXCISE TAX, FREIGHT
4 AND CARTAGE.

5 Q. CAN YOU TELL ME HOW THE FIGURES UNDER
6 THE COLUMN VARIABLE MARGIN ARE DERIVED, MR. WILSON?

7 A. AS I SAID EARLIER IT'S THE SELLING
8 PRICE LESS THE TOTAL VARIABLE COSTS COLUMN.

9 Q. WHAT DO THE NUMBERS IN THE MEMO
10 NON-VARIABLE MANUFACTURING COSTS COLUMN REPRESENT ON
11 EXHIBIT 17, MR. WILSON?

12 A. AS TO THE COMPONENTS AND HOW THEY ARE
13 ARRIVED AT I DON'T -- I CAN'T SPEAK TO THAT, BUT MY
14 UNDERSTANDING IS THAT IT'S NON-VARIABLE COST IN WHICH IS
15 USED TO VALUE INVENTORIES.

16 Q. IS THAT COLUMN SYNONYMOUS WITH
17 OVERHEADS, MR. WILSON?

18 MR. PHILLIPS: OBJECTION TO FORM.

19 A. NO, SIR. IT INCLUDES OVERHEADS OF
20 SOME NATURE. I DON'T KNOW WHAT DEGREE.

21 Q. BUT YOU ARE NOT SURE WHETHER IT
22 CONTAINS AN ALLOCATION OF ALL OVERHEADS?

23 A. THAT'S CORRECT.

24 Q. IF YOU WILL LOOK AT THE SELLING PRICE
25 COLUMN AGAIN, MR. WILSON, ARE THESE SELLING PRICES WHICH

1 INCLUDE THE DISCOUNT OFFERED FOR GENERICS?

2 MR. PHILLIPS: DO YOU MEAN --

3 Q. IS THE DISCOUNT REFLECTED IN THESE
4 FIGURES?

5 A. THE 2 PERCENT?

6 MR. PHILLIPS: YOU MEAN THE 2 PERCENT?

7 Q. THE 2 PERCENT, YES.

8 A. YES, SIR.

9 Q. DO YOU KNOW WHETHER THE SELLING
10 PRICES INCLUDE SALES TO THE MILITARY?

11 A. I'M NOT SURE I UNDERSTAND THE
12 QUESTION.

13 Q. DO THE SELLING PRICES THAT APPEAR IN
14 THE SELLING PRICE COLUMN FOR THE VARIABLE MARGIN SHEETS
15 REFLECT SELLING PRICES FOR SALES TO THE MILITARY AS WELL
16 AS SELLING PRICES FOR SALES TO NON-MILITARY CUSTOMERS?

17 A. I BELIEVE THESE WOULD BE NON-MILITARY
18 SALES.

19 Q. WHAT IS THE BASIS FOR YOUR
20 UNDERSTANDING THAT THAT'S THE CASE?

21 A. UNDERSTANDING IS THAT THE MILITARY
22 SELLING PRICES ARE LESS THAN THE NORMAL SELLING PRICE
23 FOR WHAT I CALL OUR BLACK AND WHITE BUSINESS.

24 Q. DO YOU KNOW WHETHER THE SELLING PRICE
25 FIGURES IN THE VARIABLE MARGIN SHEETS REFLECT VENDING

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1 SALES?

2 A. THAT I'M NOT SURE ABOUT.

3 Q. ARE THE SELLING PRICES FOR VENDING THE
4 SAME AS THE SELLING PRICES FOR NON-VENDING AND
5 NON-MILITARY?

6 A. REPEAT THAT ONE MORE TIME, PLEASE.

7 Q. ARE THE SELLING PRICES FOR VENDING
8 BUSINESS THE SAME AS THE SELLING PRICES FOR NORMAL
9 COMMERCIAL BUSINESS, THAT IS NON-VENDING AND NON-
10 MILITARY?

11 A. I'M NOT SURE.

12 Q. WHAT IS COINS, MR. WILSON?

13 A. IT'S MY UNDERSTANDING OF COINS IS A
14 GENERIC RELATED PRODUCT MADE SPECIFICALLY FOR VENDING
15 SALES.

16 Q. DO YOU KNOW WHETHER THERE ARE ANY
17 DIFFERENCES BETWEEN COINS AND BROWN & WILLIAMSON'S OTHER
18 GENERICS IN TERMS OF THE PHYSICAL CHARACTERISTICS OR
19 COMPONENTS OF THE CIGARETTES?

20 MR. PHILLIPS: OBJECTION TO FORM.

21 A. I HAVE NO KNOWLEDGE OF THAT AREA.

22 Q. WHAT IS MAJOR BRAND, MR. WILSON?

23 A. MAJOR BRAND IS A PRIVATE LABEL
24 GENERIC PRODUCT.

25 Q. DOES BROWN & WILLIAMSON MAKE ANY

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1 PRIVATE LABELS IN ADDITION TO MAJOR BRAND?

2 A. TODAY, WHAT TIME FRAME?

3 Q. AS OF ANY TIME IN 1984 OR 1985.

4 A. I CAN'T RECALL ANY AT THIS POINT.

5 Q. DO YOU KNOW WHETHER THERE ARE ANY

6 DIFFERENCES BETWEEN MAJOR BRAND CIGARETTES AND OTHER

7 GENERIC CIGARETTES MADE BY BROWN & WILLIAMSON IN TERMS

8 OF THE PHYSICAL CHARACTERISTICS OR COMPONENTS OF THE

9 CIGARETTES?

10 A. I HAVE NO KNOWLEDGE IN THAT

11 PARTICULAR AREA.

12 Q. DO YOU KNOW WHAT THE DIFFERENCE IS,

13 MR. WILSON, BETWEEN GPC BLACK AND WHITE AND GPC BLACK

14 AND YELLOW GENERIC CIGARETTES MADE BY BROWN &

15 WILLIAMSON?

16 MR. PHILLIPS: DIFFERENCES IN TERMS

17 OF THE PHYSICAL CHARACTERISTICS OR ANY DIFFERENCE

18 WHATSOEVER?

19 Q. ANY DIFFERENCE WHATSOEVER.

20 A. I'M AWARE OF COLOR DIFFERENCE.

21 Q. COLOR DIFFERENCE FOR THE WRAPPING?

22 A. YES.

23 Q. IS THAT THE ONLY DIFFERENCE YOU ARE

24 AWARE OF BETWEEN THOSE 2 STYLES?

25 A. THAT'S CORRECT.

Q. ALL RIGHT. LET'S MARK FOR IDENTIFICATION WILSON EXHIBIT 18, WHICH IS A COMPILATION OF THE COST SHEETS PREPARED BY BROWN & WILLIAMSON FOR GENERIC CIGARETTES DURING THE YEARS 1984 AND 1985.

THE DOCUMENT NUMBERS ARE 43957 THROUGH 963, 173185 THROUGH 197, 43969 THROUGH 990, 173198 THROUGH 204, 173178 THROUGH 184 AND 182364 THROUGH 534.

(WHEREUPON, WILSON DEPOSITION EXHIBIT 18 WAS MARKED FOR IDENTIFICATION.)

Q. THANKFULLY THESE ARE SOMEWHAT MORE SEQUENTIAL THAN SOME OF THE OTHER EXHIBITS WE'VE LOOKED AT AND WILL BE LOOKING AT.

MR. PHILLIPS: THE OTHERS WERE SEQUENTIAL BY DATE, I BELIEVE.

MR. CONDREN: CORRECT. THEY WERE SEQUENTIAL IN THEIR --

MR. PHILLIPS: OFF THE RECORD.

(DISCUSSION OFF THE RECORD.)

Q. CAN YOU IDENTIFY ALL OR ANY PART OF THIS EXHIBIT, MR. WILSON?

A. LOOKS LIKE THEY ARE THE MONTHLY COST SHEET CALCULATIONS JANUARY OF '84 THROUGH --

Q. EXCUSE ME, I THINK IT'S JULY OF '84.

A. JULY OF '84 -- SORRY -- THROUGH DECEMBER OF '85.

1 Q. WHAT KINDS OF CALCULATIONS ARE
2 CONTAINED IN THESE COST SHEETS GENERALLY, MR. WILSON?

3 A. IN MOST CASES IT'S THE CALCULATION OF
4 MONTHLY VARIABLE MARGIN ACTUAL DOLLARS AS REFLECTED IN
5 THE CURRENT STANDARDS BEING USED.

6 Q. DO THE VARIABLE MARGIN FIGURES FOR
7 GENERICS THAT APPEAR IN THESE COST SHEETS, MR. WILSON,
8 REFLECT ANY ALLOCATION OF OVERHEADS TO GENERICS?

9 A. NOT THAT I'M AWARE OF.

10 Q. DO THE VARIABLE MARGIN FIGURES THAT
11 APPEAR IN THESE COST SHEETS, MR. WILSON, REFLECT ANY
12 INVENTORY CARRYING COSTS INCURRED BY BROWN & WILLIAMSON
13 WITH RESPECT TO THE MATERIALS THAT GO INTO GENERIC
14 CIGARETTES?

15 A. NO, SIR.

16 Q. DO THESE VARIABLE MARGIN FIGURES THAT
17 APPEAR ON THESE SHEETS REFLECT ANY SALES PROMOTION
18 EXPENSES INCURRED BY BROWN & WILLIAMSON WITH RESPECT TO
19 GENERIC CIGARETTES?

20 A. NO, SIR.

21 Q. DO THEY REFLECT ANY COSTS FOR DISPLAYS
22 OR FIXTURES INCURRED BY BROWN & WILLIAMSON WITH RESPECT
23 TO GENERIC CIGARETTES?

24 A. NO, SIR.

25 Q. DID YOU RECEIVE A COPY OF THESE COST

1 SHEETS, MR. WILSON, ON A MONTHLY BASIS IN 1984 AND 1985?

2 A. NO, SIR.

3 Q. DID ANYONE IN THE BUDGET DEPARTMENT
4 AT BROWN & WILLIAMSON RECEIVE A COPY OF THESE SHEETS
5 DURING THAT TIME PERIOD?

6 A. THERE'S A POSSIBILITY THAT ON A RANDOM
7 MONTHLY BASIS WE MAY HAVE RECEIVED A COPY NOT ON A
8 ROUTINE DISTRIBUTION.

9 Q. WHEN YOU REFER TO WE, WHO WERE YOU
10 REFERRING TO SPECIFICALLY?

11 A. MYSELF.

12 Q. WHO SPECIFICALLY?

13 A. POSSIBLY JERRY BRUMLEVE OR DAN
14 ELSWICK.

15 Q. MR. BRUMLEVE WORKS FOR YOU, MR.
16 WILSON?

17 A. YES.

18 Q. HOW LONG HAS HE WORKED FOR YOU?

19 A. PROBABLY OVER A YEAR AND A HALF.

20 Q. DO YOU RECALL THE APPROXIMATE DATE
21 WHEN HE FIRST WENT TO WORK FOR YOU?

22 A. IT WAS PROBABLY EARLY '85 OR SOMETIME
23 AROUND -- YEAH, EARLY '85.

24 Q. DO YOU KNOW WHO PREPARED THESE COST
25 SHEETS THAT COMPRISE WILSON EXHIBIT 18?

1 A. THEY ORIGINATE OUT OF THE GENERAL
2 ACCOUNTING DEPARTMENT. AS TO THE SPECIFIC PERSON WHO
3 WOULD BE RESPONSIBLE PREPARING THEM, I'M NOT SURE.

4 Q. DO YOU KNOW HOW THESE SHEETS WERE
5 PREPARED BY THE GENERAL ACCOUNTING DEPARTMENT?

6 A. I'M NOT SURE WHAT --

7 Q. DO YOU KNOW THE PROCESS BY WHICH THE
8 INFORMATION THAT APPEARS ON THESE SHEETS WAS COLLECTED
9 AND INCORPORATED INTO SHEETS BY THE GENERAL ACCOUNTING
10 DEPARTMENT?

11 A. I HAVE A GENERAL UNDERSTANDING OF THE
12 PROCESS.

13 Q. COULD YOU EXPLAIN THAT TO ME, PLEASE?

14 A. BASICALLY THEY TAKE SALES INFORMATION
15 OFF OF A SALES SYSTEM. I BELIEVE IT'S CALLED SA-06
16 SYSTEM. THEY GET ACTUAL QUANTITIES AND THEY GET ACTUAL
17 DOLLARS FROM THAT SYSTEM.

18 Q. DO THE NUMBERS THAT APPEAR IN THE
19 AMOUNT DOLLARS COLUMN FOR SALES CORRESPOND WITH THE
20 SELLING PRICE FIGURES THAT APPEAR ON THE VARIABLE
21 MARGIN SHEETS FOR ANY PARTICULAR MONTH?

22 MR. PHILLIPS: GIVE ME THAT ONE AGAIN.
23 (WHEREUPON, THE REPORTER THEN READ THE
24 RECORD.)

25 Q. LET ME START AGAIN.

1 HOW ARE THE NUMBERS THAT APPEAR IN
2 THE AMOUNT DOLLARS COLUMN FOR SALES CALCULATED BY
3 GENERAL ACCOUNTING ON THE COST SHEETS?

4 A. THEY COME DIRECTLY OFF OF THE BILLING
5 SYSTEM WHICH IS A SALES SYSTEM BASED ON SALES DOLLARS
6 BILLED TO CUSTOMERS.

7 Q. IN OTHER WORDS, GENERAL ACCOUNTING
8 DOES NOT DO ANY CALCULATION ITSELF IN ARRIVING AT THE
9 NUMBERS THAT APPEAR IN THE AMOUNT DOLLARS COLUMN ON THE
10 COST SHEETS?

11 A. TO THE BEST OF MY KNOWLEDGE, THEY MAY
12 MAKE MINOR ADJUSTMENTS THAT I'M NOT AWARE OF.

13 Q. DO YOU KNOW WHAT THE RELATIONSHIP IS
14 BETWEEN THE NUMBERS THAT APPEAR IN THE QUANTITY COLUMN
15 FOR SALES AND THE NUMBERS THAT APPEAR IN THE AMOUNT
16 DOLLAR COLUMN FOR SALES IS?

17 MR. PHILLIPS: OBJECTION TO THE FORM.

18 A. IT'S MY UNDERSTANDING THEY BOTH COME
19 OFF THE SAME SALES SYSTEM.

20 Q. IS THE AMOUNT DOLLARS FIGURE FOR ANY
21 PARTICULAR STYLE ARRIVED AT BY MULTIPLYING THE QUANTITY
22 TIMES THE SELLING PRICE?

23 A. THAT'S NOT THE INTENT OF THIS
24 EXERCISE FOR SALES REVENUE. IT'S NOT AN EXTENSION
25 CALCULATION, IF YOU ARE ASKING ME THAT.

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1 Q. IF YOU MULTIPLIED THE SALES QUANTITY
2 FIGURE FOR ANY PARTICULAR STYLE TIMES THE SELLING PRICE
3 THAT APPEARS FOR THAT STYLE ON THE VARIABLE MARGIN
4 SHEET APPLICABLE FOR THAT PERIOD, WOULD YOU COME UP
5 WITH THE AMOUNT DOLLARS FIGURE THAT APPEARS ON THE COST
6 SHEET FOR ANY PARTICULAR STYLE FOR THAT PERIOD?

7 MR. PHILLIPS: IN EVERY INSTANCE?

8 Q. SHOULD THAT COME OUT FOR EVERY
9 INSTANCE?

10 A. I'M SURE THERE WOULD BE EXCEPTIONS.

11 Q. SHOULD THAT GENERALLY BE THE RULE?

12 A. GENERALLY I THINK IT SHOULD BE -- YOU
13 ARE ACTUALLY CLOSE.

14 Q. WHY WOULD THERE BE EXCEPTIONS TO THAT
15 RULE?

16 A. I CAN'T SPEAK TO THE EXCEPTIONS AT
17 THIS POINT, BUT THERE COULD BE EXCEPTIONS.

18 Q. IS ONE OF THE EXCEPTIONS THAT THE
19 SELLING PRICE THAT IS REFLECTED ON THE COST SHEETS IS
20 DIFFERENT FROM THE SELLING PRICE THAT APPEARS ON THE
21 VARIABLE MARGIN SHEET FOR THAT SAME PERIOD?

22 MR. PHILLIPS: DOES HE KNOW IF THAT'S
23 TRUE OR IS THAT ONE OF THE DIFFERENCES THAT COULD OCCUR
24 OR --

25 MR. CONDREN: DOES HE KNOW THAT THAT'S

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1 ONE OF THE DIFFERENCES THAT DID OCCUR?

2 MR. PHILLIPS: OKAY.

3 A. NO.

4 Q. YOU DON'T KNOW?

5 A. NO.

6 Q. BUT THEORETICALLY SPEAKING THAT IS A
7 DIFFERENCE THAT WOULD CREATE A DISCREPANCY BETWEEN THE
8 VARIABLE MARGIN SHEETS AND THE COST SHEETS?

9 MR. PHILLIPS: OBJECTION.

10 A. I'M NOT SURE I FOLLOW THE QUESTION.

11 Q. IF YOU TOOK THE SALES QUANTITY FIGURE
12 THAT APPEARS ON THE COST SHEET FOR ANY PARTICULAR MONTH,
13 FOR ANY PARTICULAR STYLE, AND MULTIPLIED THAT TIMES THE
14 SELLING PRICE FIGURE THAT APPEARS ON THE VARIABLE MARGIN
15 SHEET FOR THAT SAME STYLE, FOR THAT SAME TIME PERIOD, IF
16 YOU CAME UP WITH A DIFFERENT FIGURE THAN THE AMOUNT
17 DOLLARS FIGURE THAT APPEARS ON THE COST SHEET, COULD
18 THAT BE CAUSED BY THE FACT THAT THE VARIABLE MARGIN
19 SELLING PRICE FIGURE IS DIFFERENT FROM THE ACTUAL
20 SELLING PRICE FIGURE AS REFLECTED ON THE COST SHEETS?

21 A. THAT COULD BE A POSSIBILITY.

22 Q. ALL RIGHT. TURNING TO THE EXCISE TAX
23 COLUMN ON THE COST SHEETS, DO YOU KNOW HOW THE NUMBERS
24 THAT APPEAR IN THE AMOUNT DOLLARS COLUMN FOR GENERICS
25 ARE DERIVED?

1 I THINK YOU'LL HAVE TO FLIP BACK
2 BETWEEN THE PAGES.

3 A. TO THE BEST OF MY KNOWLEDGE IT'S AN
4 EXTENSION OF QUANTITY TIMES THE RATE OF \$8 PER M.

5 Q. THE QUANTITY FIGURES THAT APPEAR IN
6 THE SALES QUANTITY FIGURE FOR THAT PARTICULAR MONTH?

7 A. YES, SIR.

8 Q. DOES GENERAL ACCOUNTING DO THAT
9 CALCULATION OR IS THAT SOMETHING THAT THEY GET FROM
10 SOMEWHERE ELSE?

11 A. I BELIEVE THAT IS A CALCULATION
12 THAT'S PERFORMED THROUGH THIS PROGRAM THAT THEY HAVE
13 THIS COST SHEET SET UP ON.

14 Q. DOES SOMEONE FROM GENERAL ACCOUNTING,
15 IN THE PROCESS OF MAKING THESE SHEETS, MULTIPLY THE
16 EXCISE TAX RATE TIMES THE SALES QUANTITY TO GET THE
17 AMOUNT DOLLARS EXCISE TAX FIGURE?

18 MR. PHILLIPS: OBJECTION. I THINK HE
19 JUST ANSWERED THAT.

20 A. THERE IS A P.C. PROGRAM THAT IS SET UP
21 IN THE EARLIER DOCUMENTS HERE THAT --

22 Q. BY EARLIER DOCUMENTS, WHAT DO YOU
23 MEAN?

24 MR. PHILLIPS: WE ARE LOOKING AT THE
25 TOP ONE, JULY, 1984.

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1 A. I THINK YOU WILL FIND OUT WHEN YOU GET
2 BACK IN THE LATER DOCUMENTS, THERE IS A NEW FORMAT.

3 Q. THE ONES THAT BEGIN JULY, 1985, I
4 BELIEVE?

5 A. OKAY. WELL --

6 MR. PHILLIPS: WHENEVER THEY BEGIN,
7 BUT THERE IS A DIFFERENT FORMAT?

8 A. THERE IS A DIFFERENT FORMAT.
9 CONSEQUENTLY THERE IS A DIFFERENT SYSTEM CALCULATING IT,
10 BUT THE BOTTOM LINE IS THAT THIS IS A RATE EXTENSION.
11 WHETHER SOMEBODY PHYSICALLY DOES IT THROUGH A COMPUTER,
12 WHETHER THE COMPUTER WAS DOING IT FOR ME, IT WAS
13 PROGRAMMED TO BE A RATE EXTENSION. THE DATA THAT'S
14 LOADED INTO THE SYSTEM WOULD BE THE SALES QUANTITY,
15 SALES REVENUE DATA WOULD BE LOADED IN.

16 Q. I SEE. ALL RIGHT. DOES THE COLUMN
17 HEADED COUPON ON THE COST SHEETS HAVE ANY RELEVANCE TO
18 GENERIC SALES IN 1984 AND 1985?

19 A. NOT THAT I'M AWARE OF.

20 Q. CAN YOU TELL ME WHERE THE AMOUNT
21 DOLLARS AND RATE FIGURES THAT APPEAR ON THE COST SHEETS
22 UNDER THE VARIABLE MANUFACTURING COST COLUMN COMES FROM?

23 MR. PHILLIPS: WAIT. I'M SORRY. ON
24 THE VARIABLE MANUFACTURING COSTS, OKAY.

25 A. IT'S MY UNDERSTANDING IT'S SIMILAR TO

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1 THE EXCISE TAX CALCULATION AND IT'S A RATE PER M,
2 EMANATING FROM THE SUM-SUM SHEETS TIMES THE QUANTITIES.

3 Q. THE RATE FIGURES THAT APPEAR UNDER
4 VARIABLE MANUFACTURING COSTS CORRESPOND TO THE RATE
5 FIGURES THAT APPEAR ON THE SUM-SUM SHEETS?

6 A. IT'S MY UNDERSTANDING THEY SHOULD.

7 Q. AND THE FIGURES IN THE AMOUNT DOLLARS
8 COLUMN FOR VARIABLE MANUFACTURING COSTS ARE ARRIVED AT
9 BY MULTIPLYING THE RATE TIMES THE QUANTITY FOR THAT
10 PARTICULAR STYLE?

11 A. IT'S ALSO MY UNDERSTANDING.

12 Q. DO YOU KNOW HOW THE RATE AND AMOUNT
13 DOLLARS FIGURES THAT APPEAR UNDER THE LIFO COLUMN ON
14 THE COST SHEETS ARE DERIVED?

15 A. I HAVE A GENERAL UNDERSTANDING OF THE
16 DOLLARS, HOW THEY ARE CALCULATED. I DON'T HAVE ANY
17 KNOWLEDGE, DETAILED KNOWLEDGE HOW THE RATES ARE
18 CALCULATED.

19 Q. DO YOU KNOW WHETHER THE NUMBERS THAT
20 APPEAR IN THE RATE COLUMN FOR PARTICULAR MONTHS AND
21 PARTICULAR STYLES MATCH UP WITH THE LEAF LIFO ADJUSTMENT
22 RATES THAT APPEAR ON THE VARIABLE MARGIN SHEETS?

23 A. I DON'T KNOW HOW THEY MATCH UP, NO.

24 Q. OR IF THEY MATCH UP?

25 A. THAT'S CORRECT.

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1 Q. DO YOU KNOW WHERE THE NUMBERS THAT
2 APPEAR IN THE RATE AND AMOUNT DOLLARS COLUMNS UNDER THE
3 GENERAL COLUMN FC&I ON THE COST SHEETS ARE DERIVED?

4 A. THE RATES ARE COMING AGAIN FROM THE
5 SUM-SUM SHEETS. AT LEAST IT'S TO THE BEST OF MY
6 KNOWLEDGE THEY ARE COMING FROM THE SUM-SUM SHEETS AND
7 THE ACTUAL DOLLARS ARE AN EXTENSION TIMES QUANTITY.

8 Q. WHEN YOU SAY SUM-SUM SHEETS, YOU ARE
9 REFERRING TO EXHIBIT 17 RATHER THAN EXHIBIT 16; IS THAT
10 CORRECT WHEN WE ARE TALKING ABOUT FC&I RATES?

11 A. THAT'S CORRECT.

12 MR. PHILLIPS: VARIABLE MARGIN SHEETS.

13 Q. DO YOU KNOW WHERE THE AMOUNT DOLLARS
14 FIGURES UNDER THE COLUMN VARIABLE MARGIN FOR THE COST
15 SHEETS COME FROM?

16 A. IT'S MY UNDERSTANDING THAT WOULD BE A
17 MATHEMATICAL CALCULATION TAKING SALES REVENUE LESS ALL
18 THE VARIABLE COSTS.

19 Q. AND WHEN YOU SAY VARIABLE COSTS YOU
20 WOULD INCLUDE VARIABLE MANUFACTURING COST, LIFO AND FC&I
21 AND EXCISE TAX?

22 A. THAT'S CORRECT.

23 Q. IF YOU MULTIPLIED THE VARIABLE MARGIN
24 RATES THAT APPEAR ON EXHIBIT 17 FOR ANY PARTICULAR MONTH
25 AND ANY PARTICULAR STYLE TIMES THE SALES QUANTITY FOR

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1 THAT MONTH AND THAT STYLE, WOULD YOU GET THE NUMBERS
2 THAT APPEAR UNDER THE VARIABLE MANUFACTURING COLUMN ON
3 THE COST SHEETS?

4 Q. IN EVERY CASE, I DON'T KNOW WHETHER
5 THAT WOULD BE A TRUE STATEMENT. NORMALLY YOU SHOULD BE
6 ABLE TO COME DIRECTIONALLY CLOSE.

7 Q. IF THERE WERE A DISCREPANCY WHAT COULD
8 THAT DISCREPANCY BE ATTRIBUTABLE TO?

9 A. IT COULD BE AS SIMPLE AS YOU STATED
10 EARLIER, THAT THE SUM-SUM SHEETS SELLING PRICES WERE NOT
11 UPDATED TO REFLECT WHAT WAS ACTUALLY OCCURRING.

12 Q. AND THAT WOULD CREATE A DISCREPANCY
13 BETWEEN THE VARIABLE MARGIN RATES THAT APPEAR ON THE
14 VARIABLE MARGIN SHEETS AND THE VARIABLE MARGIN RATES
15 THAT ARE APPLIED IN THE COST SHEETS TO ARRIVE AT THE
16 VARIABLE MARGIN DOLLARS?

17 A. SEE, THERE ARE NO VARIABLE MARGIN
18 RATES USED TO CALCULATE VARIABLE MARGIN OF A COST
19 SHEETS, ONLY INDIVIDUAL RATES AND THEN ACTUAL SALES
20 REVENUE.

21 Q. RIGHT, BUT IF ALL OTHER THINGS
22 CORRESPONDED BETWEEN THE VARIABLE MARGIN SHEETS AND THE
23 COST SHEETS, YOU SHOULD ARRIVE AT THE VARIABLE MARGIN
24 DOLLARS THAT APPEAR ON THE COST SHEETS BY MULTIPLYING
25 THE VARIABLE MARGIN RATES ON THE VARIABLE MARGIN SHEETS

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1 ADJUSTMENTS THEY ARE MAKING HERE.

2 Q. BASED ON THAT CONVERSATION YOU HAD
3 WITH MISS WILLINGHAM, WHAT IS YOUR GENERAL UNDERSTANDING
4 AS TO THE MEANING OF THAT TERM SUI REVALUATION?

5 A. I DON'T RECALL ENOUGH DETAILS OF THAT
6 CONVERSATION TO BE ABLE TO EXPLAIN IT TO YOU.

7 Q. WHEN DID YOU HAVE THAT CONVERSATION
8 WITH MISS WILLINGHAM?

9 A. I'M GOING TO SAY SOMETIME IN EARLY
10 '85. I'M NOT SURE WHEN.

11 Q. OK ALL RIGHT. IF YOU WOULD LOOK AT THE
12 COLUMN STAMP. ALL THAT APPEARS DIRECTLY TO THE LEFT OF
13 SUI REVALUATION ON THE APRIL, 1985 COST SHEET --

14 A. YES, SIR.

15 Q. -- DOES THAT COLUMN HAVE ANY RELEVANCE
16 TO CALCULATION OF VARIABLE MARGIN FOR GENERIC
17 CIGARETTES?

18 A. NO, SIR, IT DOES NOT.

19 Q. WAS MR. ECKMANN IN CHARGE OF THE
20 GENERAL ACCOUNTING DEPARTMENT IN 1984 AND 1985 FOR BROWN
21 & WILLIAMSON?

22 A. I BELIEVE SO.

23 Q. DID HE RELINQUISH THAT POSITION
24 SOMETIME IN 1985 TO C. DOUGLAS BROWN?

25 A. AS TO THE TIMING OF IT I DON'T RECALL

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1 BUT YES, DOUG BROWN IS NOW IN THAT POSITION.

2 Q. WAS THAT SOMETIME IN 1985, DO YOU
3 KNOW?

4 A. I BELIEVE SO.

5 Q. FOR THE TIME PERIOD THAT HE WAS IN
6 CHARGE OF THE GENERAL ACCOUNTING DEPARTMENT, DID MR.
7 ECKMANN HAVE CHIEF RESPONSIBILITY FOR SEEING THAT THE
8 COST SHEETS WERE PREPARED PROPERLY AND ACCURATELY?

9 MR. PHILLIPS: WHAT DO YOU MEAN BY
10 CHIEF RESPONSIBILITY? COME UNDER HIS AGENT'S
11 RESPONSIBILITY GENERALLY OR WAS HE THE PERSON THAT
12 PRIMARILY PREPARED THESE THINGS?

13 Q. WAS SOMEONE THAT REPORTED TO HIM
14 RESPONSIBLE FOR PREPARING THE COST SHEETS DURING THE
15 TIME HE WAS HEAD OF THE GENERAL ACCOUNTING DEPARTMENT?

16 A. YES, SIR.

17 Q. DID MR. ECKMANN REVIEW THE COST SHEETS
18 EVERY MONTH; DO YOU KNOW?

19 A. I DON'T KNOW.

20 Q. DO YOU KNOW WHETHER MR. BACON RECEIVED
21 A COPY OF THE COST SHEETS EVERY MONTH?

22 A. NO, SIR.

23 Q. YOU DON'T KNOW?

24 A. I DON'T KNOW.

25 Q. DO YOU KNOW WHETHER THERE WAS ANY

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1 DISTRIBUTION OF THE COST SHEETS BEYOND THE GENERAL
2 ACCOUNTING DEPARTMENT IN 1984 AND 1985?

3 A. I'M NOT AWARE OF ANY.

4 Q. DID ANYONE IN THE COST DEPARTMENT
5 RECEIVE COPIES OF THE COST SHEETS IN 1984 AND 1985?

6 A. I'M NOT AWARE OF IT.

7 Q. IF YOU WILL LOOK AT THE JULY, 1985,
8 COST SHEET, MR. WILSON --

9 MR. PHILLIPS: HAVE YOU GOT A PAGE,
10 JIM? IT WOULD BE MAKE IT EASIER.

11 Q. 18234, ET CET. ARE THE SALES QUANTITY
12 AND DOLLARS FIGURES DERIVED IN THE SAME WAY BY GENERAL
13 ACCOUNTING AS THEY ARE OR WERE IN THE SHEETS WE LOOKED
14 AT THAT HAD A DIFFERENT FORMAT?

15 MR. PHILLIPS: YOU MEAN LIKE, FOR
16 EXAMPLE, THE JULY, 1984 SHEETS?

17 Q. YES.

18 A. I'M GOING TO SAY I DON'T KNOW. I'LL
19 CLARIFY IT. TO THE EXTENT THAT THIS CONSTITUTES A
20 SYSTEMS CHANGE, AND WHETHER THEY ARE SOURCING THE SAME
21 SYSTEM AS THEY WERE SOURCING IN JULY OF 1984 TO GET THE
22 SAME DATA, I DON'T KNOW.

23 Q. DO YOU BELIEVE THAT MR. ECKMANN WOULD
24 KNOW?

25 A. YES.

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1 Q. MR. BROWN, WOULD MR. BROWN KNOW?

2 A. YES.

3 Q. CAN YOU TELL ME HOW THE DOLLAR FIGURES
4 THAT APPEAR IN THE VARIABLE MARGIN COLUMN ON THE JULY,
5 1985 COST SHEETS ARE DERIVED?

6 A. IT WOULD BE MY UNDERSTANDING THAT THEY
7 WOULD BE SIMILAR TO THE '84, JULY '84 CALCULATION; THAT
8 IT WOULD BE THE END RESULTS OF SUBTRACTING SALES
9 REVENUE, VARIABLE -- VARIABLE COST, TOTAL VARIABLE COSTS
10 AWAY FROM SALES REVENUE DOLLARS.

11 Q. AND WITHIN THE HEADING VARIABLE COSTS
12 YOU WOULD INCLUDE VARIABLE MANUFACTURING COSTS, EXCISE
13 TAX, LIFO EXPENSE, AND FC&I?

14 A. I'M NOT SURE HOW THAT RATE THERE IS
15 ARRIVED AT.

16 Q. I'M NOT TALKING ABOUT THE RATE COLUMN
17 NOW. I'M TALKING ABOUT THE DOLLARS COLUMN FOR VARIABLE
18 MARGIN.

19 A. FOR VARIABLE MARGIN?

20 Q. YES. WHAT I'M ASKING IS FOR YOU TO
21 CLARIFY WHAT YOU MEANT BY VARIABLE COST.

22 A. OKAY.

23 Q. THAT IS SUBTRACTED FROM REVENUE TO
24 ARRIVE AT VARIABLE MARGIN DOLLARS.

25 MR. PHILLIPS: YOU WANT TO KNOW WHAT

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1 HE INCLUDES IN VARIABLE COSTS?

2 Q. YES.

3 A. IT'S ALL VARIABLE MANUFACTURING
4 COSTS, EXCISE TAX, LIFO, FC&I.

5 Q. AND THOSE CALCULATIONS ARE MADE, FOR
6 EXAMPLE, ON PAGE 182365 AND 366; IS THAT CORRECT?

7 A. I BELIEVE SO.

8 Q. CAN YOU TELL ME, MR. WILSON, WHY THE
9 VARIABLE RATE FIGURES THAT APPEAR IN THE FAR RIGHT-HAND
10 COLUMN DO NOT MATCH UP WITH THE VARIABLE MARGIN FIGURES
11 APPLICABLE FOR THIS MONTH AS THOSE APPEAR ON EXHIBIT
12 17? YOU MIGHT WANT TO LOOK BACK AT EXHIBIT 17.

13 FOR EXAMPLE, IF YOU LOOK AT BLENDED
14 LIGHT KINGS ON THE COST SHEET, YOU WILL SEE A VARIABLE
15 RATE PER QUANTITY FIGURE OF 4.4040, WHICH I DON'T
16 BELIEVE CORRESPONDS WITH THE FIGURE THAT APPEARS ON THE
17 VARIABLE MARGIN SHEET FOR VARIABLE MARGIN.

18 MR. PHILLIPS: DOES HE KNOW WHY THERE
19 IS A DIFFERENCE?

20 Q. YES.

21 A. I DON'T KNOW.

22 Q. DO YOU KNOW HOW THE VARIABLE RATE PER
23 QUANTITY FIGURES ARE DERIVED ON THE COST SHEETS FOR
24 JULY, 1985?

25 A. NO, SIR.

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1 Q. HOW WOULD YOU DETERMINE WHAT THE
2 SELLING PRICE WAS FOR THAT MONTH FOR BLENDED LIGHT KINGS
3 FROM LOOKING AT THE COST SHEET?

4 A. FOR ANY POINT IN TIME OR AN AVERAGE
5 FOR THE MONTH OR WHAT?

6 Q. IS THE AMOUNT THAT APPEARS UNDER THE
7 DOLLAR COLUMN FOR ANY PARTICULAR STYLE DERIVED BY
8 MULTIPLYING THE QUANTITY TIMES THE SALES PRICE?

9 A. AS REFLECTED ON THE BILLINGS TO THE
10 CUSTOMERS.

11 Q. WAS THAT DONE TO ARRIVE AT THE DOLLAR
12 FIGURES THAT APPEAR ON THIS SHEET?

13 MR. PHILLIPS: I'M LOST HERE. DO YOU
14 MEAN ARE THESE 2 NUMBERS EXTENSIONS OF EACH? IS ONE
15 NUMBER AN EXTENSION OF THE OTHER WHEN YOU ARE LOOKING AT
16 QUANTITY AND DOLLARS OR ARE THEY SEPARATELY SOURCED?

17 Q. EITHER WAY. WOULD YOU GET THE DOLLAR
18 FIGURES THAT APPEAR HERE BY MULTIPLYING THE SALES
19 QUANTITY FIGURE THAT APPEARS HERE TIMES THE SELLING
20 PRICE FOR THAT QUANTITY?

21 I DON'T CARE IF THAT'S THE WAY IT'S
22 ACTUALLY DONE OR WHETHER THEY ARE BOTH SOURCED FROM
23 ANOTHER PLACE. I WANT TO KNOW IF THE DOLLAR AMOUNT
24 WOULD BE DERIVED BY MULTIPLYING THE QUANTITY TIMES THE
25 SALE PRICE.

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1 A. THERE ARE MONTHS IN WHICH YOU COULD
2 PROBABLY DO THAT, YES.

3 Q. WHY WOULDN'T THAT ALWAYS BE THE CASE?

4 A. I'LL GIVE YOU --

5 Q. ISN'T THE DOLLAR FIGURE WHAT YOU GET
6 WHEN YOU MULTIPLY THE QUANTITY TIMES WHAT YOU SOLD IT
7 FOR?

8 MR. PHILLIPS: OBJECTION.

9 A. LET ME GIVE YOU AN EXAMPLE OF YOUR
10 FIRST QUESTION, THAT BEING WHEN COULD THERE BE AN
11 EXCEPTION.

12 LET'S SAY IN A PARTICULAR MONTH WE MAY
13 HAVE HAD A PRICE INCREASE TAKE PLACE IN THE MIDDLE OF
14 THAT MONTH. THERE IS A LIKELIHOOD THE COST SHEETS WOULD
15 NOT BE -- THE SUM-SUM SHEETS OR THE VARIABLE MARGIN PAGE
16 WOULD NOT HAVE BEEN UPDATED UNTIL THE BEGINNING OF THE
17 NEXT MONTH. THE RATES THAT YOU WOULD COME UP WITH HERE
18 WOULD BE A MIXTURE OF RATES.

19 Q. BY HERE YOU MEAN THE COST SHEETS?

20 A. THE COST SHEETS WOULD BE A MIXTURE OF
21 RATES AT THE OLD PRICE AND NEW PRICE. CONSEQUENTLY YOU
22 COULD NOT TAKE A PRICE THAT EXISTS AT A POINT IN TIME
23 WHICH IS A REFLECTION THIS STANDS FOR.

24 Q. THE SUM-SUM SHEETS?

25 A. THE SUM-SUM SHEETS, I'M SORRY, AND

1 COMPARE IT TO THE COST SHEETS.

2 Q. I SEE. AND THAT WOULD ALSO BE THE
3 CASE IF YOU HAD A DECLINE IN PRICE DURING THE PERIOD THE
4 COST SHEETS COVER?

5 A. THAT'S CORRECT.

6 Q. ALL RIGHT. LET ME ASK YOU THEN, WOULD
7 YOU GET THE AVERAGE ACTUAL PRICE FOR THE PERIOD COVERED
8 BY THE COST SHEETS BY DIVIDING THE DOLLARS BY THE
9 QUANTITY?

10 A. YES.

11 Q. THAT WOULD NOT NECESSARILY CORRESPOND
12 WITH THE SELLING PRICE THAT APPEARS ON THE VARIABLE
13 MARGIN SHEET?

14 A. THAT'S CORRECT.

15 Q. NOW, IF YOU COULD JUST DO THAT FOR ME,
16 MR. WILSON, AND TELL ME WHAT YOU COME UP WITH FOR
17 BLENDED LIGHT KINGS.

18 MR. PHILLIPS: WAIT A SECOND.

19 Q. FOR JULY, 1985.

20 MR. PHILLIPS: YOU JUST WANT HIM TO
21 SIT HERE AND DO MATH AND SEE WHAT HE'S GOING TO GET IN
22 JULY OF '85? OKAY. LET'S ALL TAKE OUT OUR CALCULATORS
23 AND --

24 THE WITNESS: HOW DO YOU KNOW THIS IS
25 JULY?

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1 MR. PHILLIPS: I DON'T KNOW IT'S JULY.
2 Q. IT SAYS IN THE TOP RIGHT-HAND CORNER.
3 A. OKAY.
4 Q. WHAT IS THE FIGURE YOU COME UP WITH
5 WHEN YOU DIVIDE THE DOLLARS BY THE QUANTITY FOR THE
6 JULY, 1985 COST SHEETS, MR. WILSON?
7 A. \$17.19.
8 Q. AND THAT IS THE NUMBER THAT REFLECTS
9 THE AVERAGE SELLING PRICE FOR BLENDED LIGHT KINGS FOR
10 JULY, 1985?
11 A. THAT'S MY UNDERSTANDING.
12 Q. IS THAT DIFFERENT FROM THE PRICE THAT
13 APPEARS IN THE VARIABLE MARGIN SHEET FOR THAT MONTH FOR
14 THAT STYLE?
15 MR. PHILLIPS: JIM --
16 MR. CONDREN: I'M ONLY GOING TO BE ON
17 THIS FOR A MINUTE, WILL.
18 MR. PHILLIPS: I REALLY -- WE CAN ALL
19 SIT HERE AND DO THIS AND SOMETHING I'VE SAID OVER AND
20 OVER AGAIN, IF YOU WANT TO MAKE A RECORD THAT IF YOU
21 DIVIDE THE SALES DOLLARS BY THE SALES QUANTITY AND
22 COMPARE THE THING YOU GET WITH THE SELLING PRICE. I
23 SUGGEST THAT THERE ARE BETTER TIMES TO DO IT BECAUSE WE
24 CAN ALL DO THIS.
25 MR. CONDREN: THIS IS ONLY GOING TO

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1 TAKE A MINUTE, WILL. IF YOU KEEP COMPLAINING ABOUT IT
2 IT WILL TAKE LONGER.

3 MR. PHILLIPS: I JUST WANT TO MAKE --
4 NOTE MY OBJECTION TO IT.

5 MR. CONOREN: DULY NOTED.

6 THE WITNESS: I'M SORRY, I LOST THE
7 QUESTION.

8 MR. PHILLIPS: WHY ARE THEY DIFFERENT,
9 THE SELLING PRICE FROM THE --

10 Q. IS THE DIFFERENCE IN SELLING PRICE
11 THAT APPEARS ON THE VARIABLE MARGIN SHEET AND COST SHEET
12 FOR THAT STYLE WHAT ACCOUNTS, AT LEAST IN PART, FOR THE
13 DIFFERENCE BETWEEN THE VARIABLE MARGIN RATES FOR THAT
14 STYLE THAT APPEAR ON THE VARIABLE MARGIN SHEETS AND THE
15 COST SHEETS?

16 A. YES.

17 Q. IF YOU WILL LOOK AT THE AUGUST, 1985
18 COST SHEET, MR. WILSON, PAGE 182388, YOU WILL SEE UNDER
19 BLENDED ULTRA LIGHT 100 A SALES DOLLAR FIGURE OF A
20 NEGATIVE 19.26.

21 CAN YOU TELL ME WHY THAT IS?

22 A. NO, SIR.

23 Q. CAN YOU TELL ME WHY THERE WOULD BE A
24 NEGATIVE COST FIGURE GENERALLY FOR ANY STYLE FOR ANY
25 MONTH?

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1 A. NOT RIGHT OFF THE TOP OF MY HEAD. IT
2 WOULD BE SOMETHING THE CREDIT DEPARTMENT WOULD HAVE TO
3 ANSWER.

4 Q. WHO WAS IN CHARGE OF THE CREDIT
5 DEPARTMENT IN 1984 AND 1985?

6 A. JOE DOLIN.

7 Q. IS THE CREDIT DEPARTMENT PART OF THE
8 GENERAL ACCOUNTING DEPARTMENT?

9 A. NO, SIR.

10 Q. IS IT PART OF THE BUDGET AND COST
11 DEPARTMENT?

12 A. NO, SIR.

13 Q. DOES MR. DOLIN REPORT TO MR. BACON?

14 A. NO, SIR.

15 Q. TO WHOM DOES MR. DOLIN REPORT?

16 A. CURRENTLY?

17 Q. DURING THE PERIOD 1984 AND 1985.

18 A. I BELIEVE HE REPORTED TO JIM ADAMS.

19 Q. WHAT WAS MR. ADAMS' POSITION IN 1984
20 AND 1985?

21 A. TREASURER.

22 Q. AND TO WHOM DID MR. ADAMS REPORT?

23 A. PAUL HEGER.

24 Q. IF YOU WILL LOOK AT THE SEPTEMBER,
25 1985 COST SHEET, MR. WILSON, PAGE 182417.

1 A. DID YOU SAY 417?

2 Q. YES.

3 MR. PHILLIPS: IT HAS SEPTEMBER

4 HANDWRITTEN AT THE TOP.

5 A. OKAY.

6 Q. IF YOU WILL LOOK AT THE VARIABLE

7 MANUFACTURING COST RATES FOR BLENDED CIGARETTES --

8 A. ON WHAT SHEET?

9 Q. IT'S THE NEXT PAGE. THAT IS 417. AND

10 YOU COMPARE THAT WITH THE VARIABLE MANUFACTURING COST

11 RATES FOR BLENDED CIGARETTES ON THE SUM-SUM SHEETS --

12 MR. PHILLIPS: SUM-SUMS?

13 Q. YES.

14 Q. YOU WILL NOTICE THAT THE RATES THAT

15 ARE USED IN THE SEPTEMBER 1985 COST SHEETS DO NOT

16 CORRESPOND WITH THE SEPTEMBER, 1985 SUM-SUM RATES BUT

17 RATHER CORRESPOND WITH THE AUGUST 1985 SUM-SUM RATES FOR

18 BLENDED CIGARETTES. WHY? DO YOU KNOW WHY THE AUGUST OF

19 1985 SUM-SUM SHEETS WERE USED RATHER THAN THE SEPTEMBER,

20 1985 SUM-SUM SHEETS IN CALCULATING VARIABLE COSTS FOR

21 BLENDED CIGARETTES AS THEY APPEAR ON THE SEPTEMBER 1985

22 COST SHEETS?

23 MR. PHILLIPS: OBJECTION. THERE HAS

24 BEEN NO TESTIMONY TO THAT.

25 A. NO, SIR.

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1 Q. IF YOU WILL LOOK AT PAGE 1828419, MR.
2 WILSON, WHICH IS THE LAST PAGE I BELIEVE FOR BLENDED FOR
3 THE SEPTEMBER, 1985 COST SHEET, CAN YOU TELL ME WHAT THE
4 COLUMN GOODS OUT MFG REPRESENTS?

5 A. NO, SIR.

6 Q. WOULD YOU LIKE TO TAKE A BREAK FOR A
7 COUPLE MINUTES, MR. WILSON?

8 A. FINE WITH ME.

9 Q. LET'S TAKE A SHORT ONE.
10 (WHEREUPON, A BREAK WAS THEN TAKEN.)
11 TAKEN.)

12 Q. WERE THE COST SHEETS THAT COMPRISE
13 EXHIBIT 18, MR. WILSON, PREPARED BY BROWN & WILLIAMSON
14 EMPLOYEES?

15 A. TO THE BEST OF MY KNOWLEDGE.

16 Q. WAS IT PART OF THEIR JOB DUTIES TO
17 PREPARE THESE SHEETS?

18 A. PARDON?

19 Q. WAS IT PART OF THE JOB DUTIES OF THE
20 PERSON WHO PREPARED THEM TO DO SO?

21 A. TO THE BEST OF MY KNOWLEDGE, YES,
22 SIR.

23 Q. WAS THAT PERSON OR PERSONS AUTHORIZED
24 TO PREPARE THOSE SHEETS BY HIS OR HER SUPERVISOR?

25 A. I'M NOT SURE I CAN SPEAK FOR ANY

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1 AUTHORIZATION BECAUSE I WASN'T INVOLVED IN --

2 Q. BUT IT'S YOUR UNDERSTANDING IT WAS
3 PART OF THAT PERSON'S JOB DUTIES TO PREPARE THESE SHEETS
4 ON A MONTHLY BASIS?

5 MR. PHILLIPS: WHOEVER THAT PERSON
6 MAY HAVE BEEN?

7 A. YES, WHOEVER THAT PERSON WAS.

8 Q. BUT IT WAS SOMEONE IN THE GENERAL
9 ACCOUNTING DEPARTMENT?

10 A. TO THE BEST OF MY KNOWLEDGE, YES.

11 Q. WERE THE COST SHEETS PREPARED AND
12 MAINTAINED IN A SYSTEMATIC MANNER BY BROWN & WILLIAMSON
13 IN 1984 AND 1985?

14 MR. PHILLIPS: OBJECTION TO FORM.
15 WHAT DO YOU MEAN BY SYSTEMATIC?

16 Q. WAS THERE AN ESTABLISHED PROCEDURE FOR
17 CREATING, DISTRIBUTING, AND MAINTAINING THESE DOCUMENTS
18 IN 1984 AND 1985?

19 A. AS FAR AS DISTRIBUTION I'M NOT AWARE
20 OF ANY DISTRIBUTION OF THESE COST SHEETS. AS FAR AS ANY
21 STANDARD FORMAT USED TO CREATE THE NUMBERS, THE BASIC
22 PRINCIPLES BEHIND THE CALCULATION REMAIN THE SAME TO THE
23 BEST OF MY KNOWLEDGE. I'M NOT AWARE OF ANY CHANGES.

24 Q. AND THERE WAS AN ESTABLISHED
25 PROCEDURE FOR MAKING THOSE CALCULATIONS AND PREPARING

1 THESE SHEETS; IS THAT CORRECT?

2 A. I'M NOT AWARE OF A DOCUMENTED
3 PROCEDURE.

4 Q. IT DOESN'T NECESSARILY HAVE TO BE
5 DOCUMENTED. MY QUESTION WENT TO THE ISSUE OF WHETHER
6 IT WAS ESTABLISHED BY SOMEONE IN THE GENERAL ACCOUNTING
7 DEPARTMENT OR ELSEWHERE AS TO HOW THESE SHEETS WOULD BE
8 PREPARED EVERY MONTH BY THE PERSON WHO PREPARED THEM.

9 A. I DON'T KNOW THAT SOMEONE SAT DOWN
10 AND TOLD THIS PERSON EXACTLY HOW TO DO THESE SHEETS.

11 Q. BUT IT'S YOUR UNDERSTANDING THEY WERE
12 PREPARED IN THE SAME MANNER EVERY MONTH GENERALLY?

13 A. GENERALLY WITH THE ONLY EXCEPTION THAT
14 I'M AWARE OF IS THE SUI REVALUATION HANDLING.

15 Q. WERE THE COST SHEETS PREPARED
16 APPROXIMATELY CONTEMPORANEOUS WITH THE PERIODS THAT THEY
17 COVER?

18 MR. PHILLIPS: OBJECTION TO FORM.

19 A. WHAT DO YOU MEAN BY APPROXIMATELY
20 CONTEMPORANEOUS?

21 Q. FOR EXAMPLE, THE JULY '84 COST SHEET,
22 WHEN WAS THAT PREPARED, APPROXIMATELY?

23 A. WITHIN THE FIRST OR SECOND WEEK OF
24 THE MONTH FOLLOWING.

25 Q. WERE THE OTHER COST SHEETS FOR 1984

50

1 AND 1985 THAT COMPRISE EXHIBIT 18 ALSO PREPARED WITHIN A
2 WEEK OR 2 OF THE END OF THE MONTH THAT THEY ARE INTENDED
3 TO COVER?

4 Q. I DON'T KNOW FOR EACH RESPECTIVE
5 MONTH WHETHER THAT WAS THE TIME PARAMETER THEY WERE
6 PREPARED WITHIN.

7 Q. IS IT YOUR UNDERSTANDING THAT WAS
8 GENERALLY THE CASE AS TO WHEN THESE DOCUMENTS WERE
9 PREPARED?

10 A. IT SHOULD HAVE BEEN THE GENERAL CASE,
11 YES, SIR.

12 Q. LET'S MARK FOR IDENTIFICATION WILSON
13 EXHIBIT 19, WHICH IS A COMPILATION OF THE BRAND
14 CONTRIBUTION SHEETS FOR GENERICS FOR 1984 AND 1985,
15 DOCUMENT NUMBERS 91960 THROUGH 63, 91952 THROUGH
16 57, 44063 AND 183750 THROUGH 755.

17 (WHEREUPON, WILSON DEPOSITION EXHIBIT
18 19 WAS MARKED FOR IDENTIFICATION.)

19 Q. CAN YOU IDENTIFY ALL OR ANY PART OF
20 THIS DOCUMENT, MR. WILSON?

21 A. I SEE A BRAND CONTRIBUTION, AN
22 EXTRACTION OF THE BRAND CONTRIBUTION REPORT FOR THE
23 GENERICS.

24 Q. WAS THERE A BRAND CONTRIBUTION REPORT
25 OF THIS NATURE PREPARED FOR GENERICS FOR EVERY MONTH

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1 FROM THE TIME GENERICS WERE FIRST PRODUCED THROUGH THE
2 END OF 1985?

3 A. I'M NOT SURE AS TO WHEN WE FIRST
4 STARTED PRODUCING GENERICS. I BELIEVE AUGUST IS THE
5 FIRST REPORT THAT WE GENERATED FOR THE GENERIC BRAND
6 CONTRIBUTION.

7 Q. WAS THERE ONE GENERATED FOR EVERY
8 MONTH THEREAFTER THROUGH 1984 AND 1985, TO THE BEST OF
9 YOUR KNOWLEDGE?

10 A. TO THE BEST OF MY KNOWLEDGE, YES.

11 Q. DO YOU KNOW WHO PREPARED THESE
12 DOCUMENTS?

13 A. ONE OF MY STAFF MEMBERS WOULD HAVE
14 PREPARED THESE DOCUMENTS.

15 Q. ONE OF YOUR STAFF MEMBERS PREPARED
16 EACH OF THESE DOCUMENTS? I DON'T MEAN THE SAME ONE
17 PREPARED ALL OF THEM, BUT EVERY ONE WAS PREPARED BY A
18 STAFF MEMBER OF YOURS; IS THAT CORRECT?

19 A. THAT'S CORRECT.

20 Q. WERE THEY ALL PREPARED BY THE SAME
21 PERSON?

22 A. I DON'T BELIEVE SO.

23 Q. CAN YOU NAME FOR ME ANY OF THE
24 PERSONS WHO PREPARED THESE?

25 A. YEAH, I WOULD SAY THE MAJORITY OF

1 THEM WOULD HAVE BEEN PREPARED BY JERRY BRUMLEVE.

2 Q. THE MAJORITY OF THEM WERE PREPARED BY
3 MR. BRUMLEVE?

4 A. YES.

5 Q. DO YOU KNOW WHO ELSE PREPARED ANY OF
6 THESE SHEETS IN YOUR DEPARTMENT?

7 A. MISS WILLINGHAM MAY HAVE PREPARED SOME
8 OF THE EARLIER ONES OF 1984.

9 Q. DID MISS WILLINGHAM WORK FOR YOU
10 DURING PART OF 1984?

11 A. YES.

12 Q. WHAT WAS HER POSITION WHEN SHE WORKED
13 FOR YOU?

14 A. SHE WAS A COST -- I MEAN A BUDGET
15 ANALYST.

16 Q. WAS THAT BEFORE OR AFTER SHE BECAME A
17 COST ANALYST?

18 A. THAT WAS AFTER.

19 Q. SHE BECAME A BUDGET ANALYST AFTER SHE
20 BECAME A COST ANALYST?

21 A. RIGHT.

22 Q. DID SHE BECOME MANAGER OF THE COST
23 DEPARTMENT AFTER SHE WAS A BUDGET ANALYST?

24 A. RIGHT.

25 Q. DIRECTLY AFTER?

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1 A. YES.

2 Q. DO YOU KNOW WHEN SHE FIRST WENT TO
3 WORK FOR YOU AS A BUDGET ANALYST?

4 A. I DON'T RECALL THE SPECIFIC DATE.

5 Q. WAS IT SOMETIME IN 1984?

6 A. I'M NOT SURE.

7 Q. ARE THERE BRAND CONTRIBUTION SHEETS
8 DONE FOR BROWN & WILLIAMSON'S OTHER BRANDS OF CIGARETTES
9 ASIDE FROM GENERICS?

10 A. YES.

11 Q. ARE THEY DONE SEPARATELY FOR VICE
12 ROYS, SAY?

13 A. YES.

14 Q. WHAT IS BRAND CONTRIBUTION, MR.
15 WILSON, AS THAT TERM IS USED IN THE DOCUMENTS THAT
16 COMPRISE EXHIBIT 19?

17 A. BRAND CONTRIBUTION IS A MATHEMATICAL
18 CALCULATION TAKING VARIABLE MARGIN AND SUBTRACTING FROM
19 IT ALL ADVERTISING, MEDIA, SALES PROMOTION SPECIFIC,
20 PROMOTION OF MERCHANDISING EXPENSES THAT ARE
21 SPECIFICALLY IDENTIFIED TO A PARTICULAR BRAND.

22 Q. IN THIS CASE GENERICS?

23 A. YES, SIR.

24 Q. DOES BRAND CONTRIBUTION FOR GENERICS
25 TAKE INTO ACCOUNT ANY ALLOCATION OF OVERHEADS TO

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1 GENERICS?

2 A. NO, SIR.

3 Q. DOES IT TAKE INTO ACCOUNT ANY
4 INVENTORY CARRYING COSTS INCURRED WITH RESPECT TO
5 GENERIC CIGARETTES?

6 A. NO, SIR.

7 Q. DOES IT TAKE INTO ACCOUNT ANY COSTS
8 INCURRED FOR DAMAGED OR OBSOLETE MATERIALS WITH RESPECT
9 TO GENERICS?

10 MR. PHILLIPS: OBJECTION TO THE FORM.

11 A. WHAT DO YOU MEAN BY DAMAGED AND
12 OBSOLETE MATERIALS?

13 Q. IS THAT A TERM THAT HAS ANY MEANING TO
14 YOU IN AND OF ITSELF, MR. WILSON?

15 A. THERE IS A FUNCTIONAL ACCOUNT CALLED
16 DAMAGED AND OBSOLETE MATERIALS WITHIN OUR CORPORATE
17 ACCOUNTS.

18 Q. AND WHAT SORTS OF ITEMS ARE CONTAINED
19 IN THAT ACCOUNT, DAMAGED AND OBSOLETE MATERIALS?

20 A. TO THE BEST OF MY KNOWLEDGE, IT WOULD
21 BE FINISHED GOODS, WRITE-OFFS, MANUFACTURING MATERIALS
22 WRITE-OFFS, OUR SUPPLY WRITE-OFFS.

23 Q. WERE ANY OF THOSE WRITE-OFFS INCURRED
24 FOR GENERICS IN 1984 OR 1985?

25 A. I'M SORRY, REPEAT THE QUESTION.

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1 Q. WERE THERE ANY WRITE-OFFS FOR DAMAGED
2 OR OBSOLETE MATERIALS WITH RESPECT TO GENERICS IN 1984
3 AND 1985?

4 A. I BELIEVE SO.

5 Q. ARE ANY OF THOSE WRITE-OFFS REFLECTED
6 IN BRAND CONTRIBUTION FOR GENERICS?

7 A. NO, SIR.

8 Q. DOES BRAND CONTRIBUTION FOR GENERICS
9 REFLECT ANY RETURNS FROM THE TRADE OR FROM THE FIELD FOR
10 GENERICS IN 1984 AND 1985?

11 A. IN THE CONTEXT OF THESE DOCUMENTS, WE
12 REPORT BRAND CONTRIBUTION BEFORE RETURNS.

13 Q. IS THAT TRUE FOR ALL OF THESE
14 DOCUMENTS? I BELIEVE THE 1984 BRAND CONTRIBUTION SHEETS
15 FOR GENERICS HAVE A LINE ITEM LOSS ON RETURNS AFTER
16 WHICH FOLLOWS THE LINE ITEM CONTRIBUTION AFTER RETURNS.

17 A. ALSO IT IS ZERO AMOUNT THERE SO I
18 THINK WE ARE TALKING FORMAT.

19 Q. I SEE. WERE THERE ANY LOSSES ON
20 RETURNS INCURRED WITH RESPECT TO GENERICS IN 1984 AND
21 1985?

22 A. NONE THAT I'M AWARE OF.

23 Q. IF THERE WERE, WOULD THEY BE REFLECTED
24 IN BRAND CONTRIBUTION FOR GENERICS FOR 1984 OR 1985?

25 MR. PHILLIPS: OBJECTION.

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1 A. THAT REQUIRES ME TO SPECULATE BUT--

2 Q. I DON'T THINK IT'S REQUIRING YOU TO
3 SPECULATE, MR. WILSON. I'M JUST ASKING YOU WHETHER
4 BRAND CONTRIBUTION IS DESIGNED TO INCORPORATE THOSE
5 TYPES OF LOSSES WITH RESPECT TO GENERICS. WHETHER THERE
6 WERE THOSE TYPES OF LOSSES IS ANOTHER QUESTION THAT MAY
7 REQUIRE YOU TO SPECULATE. WHAT I'M ASKING YOU: IS
8 BRAND CONTRIBUTION FOR GENERICS DESIGNED TO REFLECT
9 THOSE TYPES OF LOSSES?

10 MR. PHILLIPS: WAS IT DESIGNED IN 1984
11 TO REFLECT IT?

12 Q. AND 1985.

13 A. NO.

14 Q. IT WAS NOT DESIGNED TO REFLECT THAT
15 TYPE OF LOSS IN EITHER 1984 OR 1985?

16 A. TO THE BEST OF MY KNOWLEDGE.

17 Q. IF YOU WILL LOOK AT THE FIRST PAGE OF
18 THIS EXHIBIT, MR. WILSON, WHERE DO THE SALES UNITS
19 ACTUAL NUMBERS COME FROM THAT APPEAR ON THIS EXHIBIT?

20 A. SALES UNITS, IT COULD BE THE AG-90.

21 Q. WHAT IS THE AG-90?

22 A. IT'S A SALES REPORT.

23 Q. DO THESE SALES UNITS FIGURES THAT
24 APPEAR ON THE BRAND CONTRIBUTION SHEETS COME FROM THE
25 SAME SOURCE AS THE SALES UNIT FIGURES THAT APPEAR ON

1 THE COST SHEETS?

2 A. THEY SHOULD BE SIMILAR.

3 Q. DO THEY COME FROM THE SAME SOURCE?

4 A. I DON'T KNOW.

5 Q. ARE THEY INTENDED TO MATCH UP FOR ANY
6 PARTICULAR MONTH?

7 A. THEY SHOULD.

8 Q. ARE THE SALES UNITS FIGURES THAT
9 APPEAR ON THE BRAND CONTRIBUTION SHEETS MILLIONS OF
10 STICKS?

11 A. YES.

12 Q. CAN YOU TELL ME WHERE THE GROSS PAID
13 SALES FIGURES THAT APPEAR ON THE BRAND CONTRIBUTION
14 SHEETS ARE TAKEN FROM UNDER THE ACTUAL COLUMN?

15 A. THE ACTUAL SOURCE DOCUMENT THAT WE
16 USE, I DON'T RECALL A PARTICULAR SOURCE DOCUMENT BUT
17 IT'S -- YOU COULD GET THE SAME INFORMATION FROM THE COST
18 SHEETS.

19 Q. THE GROSS PAID SALES FIGURES THAT
20 APPEAR ON BRAND CONTRIBUTION AND THEN APPEAR ON THE
21 COST SHEETS FOR ANY PARTICULAR MONTH SHOULD MATCH UP?

22 A. I BELIEVE SO.

23 Q. AND THE GROSS PAID SALES FIGURES THAT
24 APPEAR ON THE BRAND CONTRIBUTION SHEETS ARE IN THOUSANDS
25 OF DOLLARS; IS THAT CORRECT?

1 A. YES.

2 Q. WHERE ARE THE VARIABLE MARGIN ACTUAL
3 FIGURES ON THE BRAND CONTRIBUTION SHEETS DERIVED FROM?

4 A. THERE AGAIN, I THINK A POSSIBLE SOURCE
5 COULD BE THE COST SHEETS.

6 Q. BUT IN ANY EVENT THOSE NUMBERS SHOULD
7 CORRESPOND TO THE VARIABLE MARGIN FIGURES THAT APPEAR ON
8 THE BRAND CONTRIBUTION SHEET AND THE VARIABLE MARGIN
9 FIGURES THAT APPEAR ON THE COST SHEETS FOR ANY
10 PARTICULAR MONTH?

11 A. GENERALLY THAT'S TRUE.

12 Q. THE VARIABLE MARGIN FIGURES THAT
13 APPEAR ON THE BRAND CONTRIBUTION SHEETS ARE IN THOUSANDS
14 OF DOLLARS; IS THAT CORRECT?

15 A. ALL THE DOLLARS THAT ARE REGISTERED ON
16 THE BRAND CONTRIBUTION GENERIC SHEET SHOULD BE IN
17 THOUSANDS, AS NOMENCLATURE UP AT THE TOP.

18 Q. WAS THERE A GENERICS BUDGET FOR 1984,
19 MR. WILSON?

20 A. NO. LET ME CLEAR UP A POINT YOU MADE
21 EARLIER.

22 Q. SURE.

23 A. WHEN WE TALK ABOUT BRAND CONTRIBUTION
24 WE DO BRAND CONTRIBUTION ON A YEAR-TO-DATE BASIS SO THE
25 ONLY WAY YOU WILL GET LINKAGE TO YOUR COST SHEETS AFTER

1 THE FIRST MONTH OF A YEAR WOULD BE TO ACCUMULATE THE
2 COST SHEET DATA WHICH THAT'S NOT DONE, SO REFERENCING IT
3 BACK TO THE COST SHEET IS NOT AS SIMPLE.

4 Q. BUT YOU COULD FIND OUT THE BRAND
5 CONTRIBUTION FIGURES FOR ANY PARTICULAR MONTH BY
6 SUBTRACTING THE PRIOR MONTH'S TOTAL FIGURES FROM THAT
7 MONTH'S TOTAL FIGURES; IS THAT CORRECT?

8 MR. PHILLIPS: THE TOTAL OF PRIOR
9 MONTHS' TOTAL FIGURES.

10 Q. RIGHT, THE YEAR TO DATE FIGURE FOR
11 PRIOR MONTH COULD BE SUBTRACTED FROM THE YEAR TO DATE
12 FIGURE FOR THE NEXT MONTH TO GET YOU THE BRAND
13 CONTRIBUTION INCREMENTS FOR THE LATER MONTH; IS THAT
14 CORRECT?

15 A. YES, FOR THE -- YES.

16 Q. THAT WOULD BE ANOTHER METHOD OF
17 COMPARING THE BRAND CONTRIBUTION SHEETS AND THE COST
18 SHEETS FOR ANY PARTICULAR MONTH, ASIDE FROM ADDING UP
19 THE COST SHEET FIGURES FOR EVERY MONTH TO GIVE YOU A
20 YEAR TO DATE FIGURE FOR THE COST SHEETS?

21 A. YES.

22 Q. WHAT IS THE LATEST REVISED PLAN
23 REFERENCE THAT APPEARS IN THE FAR RIGHT-HAND COLUMN ON
24 THE BRAND CONTRIBUTION SHEETS, MR. WILSON?

25 MR. PHILLIPS: ARE YOU TALKING ABOUT

1 THE 91960?

2 Q. YES AND THEREAFTER. SOME OF THEM
3 HAVE BEEN REDACTED BUT GENERALLY SPEAKING THERE IS A
4 LATEST REVISED PLAN COLUMN FOR EACH OF THE BRAND
5 CONTRIBUTION SHEETS.

6 A. IT'S INTENDED TO REPRESENT THE
7 CURRENT ESTIMATE OF BRAND CONTRIBUTION FOR THAT
8 PARTICULAR YEAR THAT WE ARE --

9 Q. WHERE DO THOSE FIGURES COME FROM THAT
10 APPEAR THROUGHOUT THE BRAND CONTRIBUTION SHEETS UNDER
11 THE LATEST REVISED PLAN COLUMN? WHERE DOES MR. BRUMLEVE
12 OR WHOEVER PREPARED THESE GET THOSE FIGURES FROM?

13 A. THE SOURCE WOULD VARY BUT IT DEPENDS
14 ON -- COULD VERY WELL BE QUARTERLY PROFIT PROJECTION,
15 DETAILED INFORMATION. IT JUST COMES FROM VARIOUS
16 ESTIMATE WORK PAPERS.

17 MR. PHILLIPS: LET ME JUST INTERRUPT
18 ONE SECOND, JIM.

19 SINCE I DON'T NOTICE ANY REDACTION
20 STAMPS, I'M CERTAIN IT WASN'T INTENTIONALLY REDACTED BY
21 ANY MEANS. I WILL LOOK AT THE NUMBERS HERE, AND IF OUR
22 COPIES HAVE THE INFORMATION WHICH -- FOR EXAMPLE, ON THE
23 DECEMBER, 1984 SHEET APPEARS TO BE MISSING, IF WE HAVE A
24 BETTER COPY I'LL GIVE THAT TO YOU OF THESE DOCUMENTS.

25 MR. CONDREN: ALL RIGHT. I APPRECIATE.

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1 THAT. I WAS GOING TO REQUEST THAT FOR THE BRAND
2 CONTRIBUTION SHEETS THAT APPEAR TO BE REDACTED.

3 MR. PHILLIPS: WELL, THEY APPEAR BUT
4 SINCE IT IS A PRACTICE TO STAMP REDACTED ON ANY DOCUMENT
5 THAT HAS BEEN REDACTED, SINCE I'M AWARE OF NO INSTANCES
6 IN WHICH DOCUMENTS HAVE BEEN REDACTED AT LEAST
7 INTENTIONALLY OUTSIDE OF, SAY, DUPLICATING ERRORS, I
8 WILL CHECK OUR DOCUMENTS. IF OUR COPIES ARE BETTER,
9 I'LL GET YOU ONE.

10 Q. RIGHT. THE BASIS FOR MY BELIEF THAT
11 IT HAS BEEN REDACTED IS IF YOU COMPARE THE JULY '85 WITH
12 THE AUGUST '85 BRAND CONTRIBUTION SHEETS, THERE IS
13 INFORMATION ON THE JULY '85 THAT IS ABSENT FROM THE
14 AUGUST '85.

15 MR. PHILLIPS: I UNDERSTAND THAT, BUT
16 YOU MAY -- BUT AS I SAID, IT IS -- WE DON'T REDACT
17 WITHOUT STAMPING REDACTED ON IT. I'M SURE YOU ARE AWARE
18 FROM SEEING LOTS OF REDACTED STAMPS, AND SO I DON'T KNOW
19 IF THE COPY THAT WE HAVE HAS THIS. I WILL CHECK IT
20 OUT. MAYBE SOMETHING WE CAN ASK MR. WILSON IF THAT
21 INFORMATION ALWAYS APPEARS ON THE BOTTOM OF THEM. I
22 DON'T KNOW.

23 Q. THAT'S A GOOD IDEA. MR. WILSON, DO
24 THE ALL OF THE BRAND CONTRIBUTION SHEETS FOR 1985
25 CONTAIN BUDGET AND LATEST REVISED PLAN INFORMATION?

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1 FOR EXAMPLE, IF YOU LOOK AT AUGUST OF
2 1985, IS IT YOUR UNDERSTANDING THERE WAS A LATEST
3 REVISED PLAN COLUMN THAT APPEARS NEXT TO THE BUDGET
4 COLUMN?

5 A. YES.

6 Q. AND THAT THERE WAS OTHER INFORMATION
7 ON THE AUGUST 1985 BRAND CONTRIBUTION SHEET SUCH AS
8 OPERATING VARIANCE AND ANNUAL BRAND SPENDING FIGURES?

9 A. YES, YES.

10 Q. ALL RIGHT. SO YOU'LL JUST CHECK INTO
11 IT, WILL, SEE IF THOSE HAVE BEEN REDACTED AND IF SO WE
12 WOULD LIKE UNREDACTED COPIES.

13 MR. PHILLIPS: IF THEY HAVE BEEN
14 REDACTED, I WILL CHECK OUT WHY, A, THEY ARE NOT STAMPED
15 AND, B, WHY THEY WERE REDACTED, BUT I WILL CHECK INTO
16 IT.

17 Q. THANK YOU. MR. WILSON, IF YOU WOULD
18 LOOK AT THE DECEMBER OF 1984 BRAND CONTRIBUTION SHEET
19 AND COMPARE THAT WITH THE NOVEMBER OF 1984 BRAND
20 CONTRIBUTION SHEET, UNDER THE GROSS PAID SALES, ACTUAL
21 YEAR-TO-DATE COLUMNS -- OH, I'M SORRY, CHANGE THAT TO
22 THE VARIABLE MARGIN COLUMNS FOR NOVEMBER OF 1984 AND
23 DECEMBER 1984.

24 IF YOU WOULD, MR. WILSON, I WOULD JUST
25 LIKE YOU TO CALCULATE WHAT THAT DIFFERENCE IS FOR THE

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1 PURPOSES OF EXPLAINING TO ME WHY THE VARIABLE MARGIN
2 INCREMENT AS IT APPEARS ON THE BRAND CONTRIBUTION SHEET
3 IS DIFFERENT FROM THE VARIABLE MARGIN FIGURE THAT
4 APPEARS ON THE COST SHEETS FOR DECEMBER OF 1984 FOR
5 GENERICS.

6 MR. PHILLIPS: YOU WANT TO KNOW WHY
7 THE VARIABLE MARGIN FIGURE --

8 Q. THE VARIABLE MARGIN INCREMENT
9 ATTRIBUTABLE TO GENERICS FOR 19 -- DECEMBER 1984?

10 MR. PHILLIPS: WHICH IS APPROXIMATELY
11 A LITTLE LESS THAN 3,000 UNDER THE ACTUAL COLUMN; IS
12 THAT CORRECT?

13 MR. CONDREN: IT WOULD BE A LITTLE
14 LESS THAN 3 MILLION.

15 MR. PHILLIPS: OKAY. 3,000 IT APPEARS
16 HERE BUT 3 MILLION BECAUSE THE DOLLARS ARE IN THOUSANDS,
17 AND YOU WANT TO COMPARE THAT TO NOVEMBER OF 1984?

18 MR. CONDREN: NO? DECEMBER, 1984.

19 MR. PHILLIPS: DECEMBER, 1984?

20 MR. CONDREN: COST SHEET VARIABLE
21 MARGIN FIGURES.

22 MR. PHILLIPS: WHICH IS 2 MILLION 7
23 AND CHANGE.

24 Q. I CAN REPRESENT TO YOU, MR. WILSON,
25 THAT THE DIFFERENCE IN VARIABLE MARGIN -- IF YOUR

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1 COUNSEL IS UNWILLING TO LET YOU DO THE CALCULATION FOR
2 THE BRAND CONTRIBUTION SHEETS -- IS SLIGHTLY MORE THAN
3 2.9 MILLION DOLLARS.

4 MR. PHILLIPS: SO THERE IS A
5 DIFFERENCE OF WHAT YOU ARE SAYING AROUND 200?

6 Q. \$230,000 APPROXIMATELY. AND I WOULD
7 LIKE TO ASK MR. WILSON IF HE CAN EXPLAIN TO ME WHY THERE
8 IS A DISCREPANCY BETWEEN THOSE 2 FIGURES.

9 A. I DON'T KNOW OF ANY REASON.

10 Q. IF YOU LOOK AT THE NOVEMBER, 1985, AND
11 THE FEBRUARY -- EXCUSE ME, THE DECEMBER, 1985 VARIABLE
12 MARGIN FIGURES, YOU WILL NOTICE A DISCREPANCY OF
13 APPROXIMATELY 9 MILLION DOLLARS. IN OTHER WORDS, THE
14 BRAND CONTRIBUTION SHEETS REFLECT --

15 MR. PHILLIPS: A DIFFERENCE IN
16 VARIABLE MARGIN OF APPROXIMATELY 9 MILLION --

17 Q. YES, AN INCREMENT OF APPROXIMATELY 9
18 MILLION DOLLARS FOR DECEMBER 1985 ATTRIBUTABLE TO
19 GENERICS; IS THAT CORRECT, MR. WILSON?

20 A. YES.

21 Q. CAN YOU EXPLAIN TO ME AGAIN WHY THERE
22 WOULD BE A DISCREPANCY BETWEEN THE VARIABLE MARGIN
23 FIGURES THAT APPEAR FOR DECEMBER 1985 IN BRAND
24 CONTRIBUTION AND THE VARIABLE MARGIN FIGURES THAT APPEAR
25 ON THE COST SHEETS FOR GENERICS IN DECEMBER 1985?

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1 Q. THE PROBLEM WE HAVE WITH THE DECEMBER
2 1985 COST SHEETS IS THERE IS NO TOTAL FIGURE FOR
3 VARIABLE MARGIN ATTRIBUTABLE TO GENERICS. I CAN
4 REPRESENT TO YOU THAT WHEN YOU ADD UP THE FIGURES WE
5 HAVE BEEN GIVEN, IT TOTALS APPROXIMATELY 8.4 MILLION
6 DOLLARS.

7 MR. PHILLIPS: IT DEPENDS WHAT YOU
8 ARE TOTALING.

9 MR. CONDREN: I'M TOTALLING THE
10 VARIABLE MARGIN DOLLARS THAT APPEAR FOR EACH BRAND AND
11 STYLE OF GENERICS FOR DECEMBER 1985 THAT WE HAVE BEEN
12 PROVIDED.

13 WHAT I HAVE TOTALED IS ALL OF THE
14 VARIABLE MARGIN DOLLARS FIGURES THAT APPEAR ON THE
15 DECEMBER 1985 COST SHEETS, ONE EXAMPLE OF WHICH IS
16 \$13,948.47 FOR BLENDED GENERICS AS IT APPEARS ON THE
17 FIRST PAGE.

18 MR. PHILLIPS: WHAT ELSE DID YOU ADD
19 TO THAT?

20 MR. CONDREN: ALL THE VARIABLE MARGIN
21 DOLLARS FIGURES THAT APPEAR FOR THE OTHER BRANDS AND
22 STYLES OF GENERICS.

23 MR. PHILLIPS: LET'S BE SPECIFIC.
24 LET'S GO THROUGH THE PAGES. YOU TOTALED THE 13,948 ON
25 18257?

1 MR. CONDREN: YES.

2 MR. PHILLIPS: AND YOU TOTALED -- DID
3 YOU TOTAL ANY OF THE NUMBERS ON 18258?

4 MR. CONDREN: NO, THOSE ARE
5 INCORPORATED INTO VARIABLE MARGIN.

6 MR. PHILLIPS: THEN YOU TOTALED THE
7 BRANDED FIGURES ON THE NEGATIVE 122.72?

8 MR. CONDREN: YES, ON 182511.

9 MR. PHILLIPS: ALL RIGHT. THEN YOU
10 TOTALED THE COIN, THE NEGATIVE 211.7 FOR 18215?

11 MR. CONDREN: YES.

12 MR. PHILLIPS: THEN YOU TOTALED THE
13 FILTER S.T.'S, 2,965,181.34 ON 519?

14 MR. CONDREN: YES.

15 MR. PHILLIPS: THEN THE TOTAL FOR GPC
16 4,427,443.31?

17 MR. CONDREN: YES, GPC BLACK AND WHITE
18 AS IT APPEARS ON 185253.

19 MR. PHILLIPS: THEN GPC BLACK AND
20 WHITE, YELLOW, THE 12,140.74?

21 MR. CONDREN: YES, ON 182527.

22 MR. PHILLIPS: THEN THE 959,525.74 FOR
23 MAJOR BRAND ON 531?

24 MR. CONDREN: YES.

25 MR. PHILLIPS: AND THAT'S WHAT YOU

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1 TOTALLED?

2 MR. CONDREN: YES.

3 MR. PHILLIPS: AND YOU ARE SAYING THAT

4 COMES OUT TO --

5 MR. CONDREN: APPROXIMATELY 8.4

6 MILLION DOLLARS.

7 MR. PHILLIPS: WHICH IS DIFFERENT FROM

8 THE APPROXIMATE 9 MILLION DOLLARS THAT IS THE CHANGE

9 BETWEEN NOVEMBER AND DECEMBER OF '85? OKAY.

10 MR. CONDREN: CORRECT.

11 MR. PHILLIPS: I'LL TAKE YOUR
12 REPRESENTATION NOW WITHOUT CHECKING IT MYSELF.

13 MR. CONDREN: YOU ARE FREE TO MAKE THE
14 CALCULATION AT ANYTIME YOU WISH.

15 MR. PHILLIPS: NO. TO SAVE TIME HERE
16 DO YOU KNOW WHY THAT IS?

17 A. NO.

18 Q. WHEN BROWN & WILIAMSON CREATES ITS
19 CONSOLIDATED INCOME STATEMENT, MR. WILSON, DO YOU KNOW
20 WHERE IT GETS ITS GROSS PAID SALES FIGURES FOR GENERICS?

21 MR. PHILLIPS: OBJECTION TO FORM. GO
22 AHEAD.

23 Q. DO YOU UNDERSTAND THE QUESTION?

24 LET ME ASK IT ANOTHER WAY.

25 IN CREATING THE CONSOLIDATED INCOME

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1 STATEMENT FOR BROWN & WILLIAMSON WHICH INCORPORATES,
2 AMONG OTHER THINGS, GROSS PAID SALES FOR ALL OF BROWN &
3 WILLIAMSON'S CIGARETTES INCLUDING ITS GENERICS AND ITS
4 BRANDS, DOES BROWN & WILLIAMSON GET THE GROSS PAID SALES
5 INFORMATION FOR GENERICS FROM THE COST SHEETS?

6 A. I'M NOT SURE THAT THE COST SHEETS OR
7 ANOTHER SOURCE IS USED TO BOOK THE GROSS PAID SALES
8 ENTRY.

9 Q. IF ANOTHER SOURCE OTHER THAN THE COST
10 SHEETS IS USED, IS THAT THE SAME SOURCE THAT THE COST
11 SHEETS USE IN GETTING THEIR GROSS PAID SALES FIGURES
12 FOR GENERICS?

13 A. I WOULD HAVE TO ASSUME THAT'S CORRECT.

14 Q. DOES THE CONSOLIDATED INCOME STATEMENT
15 FOR BROWN & WILLIAMSON REFLECT, AMONG OTHER THINGS,
16 GROSS PAID SALES FIGURES FOR GENERICS AS THEY APPEAR IN
17 THE COST SHEETS FOR EVERY MONTH?

18 A. I DON'T KNOW THAT FOR A FACT.

19 Q. BUT YOU BELIEVE THAT THE GROSS PAID
20 SALES INFORMATION FOR GENERICS THAT GOES INTO THE
21 CONSOLIDATED INCOME STATEMENT COMES EITHER FROM THE COST
22 SHEETS OR FROM A SOURCE THAT IS ALSO USED BY THE COST
23 SHEETS IN ARRIVING AT THEIR GROSS PAID SALES FIGURES; IS
24 THAT CORRECT?

25 MR. PHILLIPS: I OBJECT. I DON'T

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1 THINK THAT'S WHAT HE SAID.

2 A. CAN YOU REPEAT THE QUESTION?

3 (WHEREUPON, THE REPORTER THEN READ
4 THE RECORD.)

5 A. I ASSUME THAT, BUT I DON'T KNOW THAT
6 FOR A FACT.

7 Q. DOES BROWN & WILLIAMSON USE THE BRAND
8 CONTRIBUTION SHEETS FOR GENERICS IN CALCULATING GROSS
9 PAID SALES AND VARIABLE MARGIN FIGURES?

10 MR. PHILLIPS: FOR THE CONSOLIDATED
11 INCOME STATEMENTS?

12 Q. I'M SORRY, CONSOLIDATED INCOME
13 STATEMENT?

14 A. NO.

15 Q. NONE OF THE FIGURES THAT APPEAR ON THE
16 BRAND CONTRIBUTION SHEETS FOR GROSS PAID SALES OR
17 VARIABLE MARGIN FOR GENERICS ARE INCORPORATED INTO THE
18 CONSOLIDATED INCOME STATEMENT; IS THAT CORRECT?

19 MR. PHILLIPS: THAT'S A DIFFERENT
20 QUESTION.

21 A. NONE OF THE NUMBERS THAT YOU SEE ON
22 BRAND CONTRIBUTION REPORTS, NONE OF THOSE NUMBERS ARE
23 THE SOURCE INFORMATION FOR THE CONSOLIDATED INCOME
24 STATEMENT. THE CONSOLIDATED INCOME STATEMENT IS
25 PREPARED PRIOR TO THE BRAND CONTRIBUTION REPORTS.

1 Q. I SEE. IF THERE IS A DISCREPANCY IN
2 VARIABLE MARGIN FIGURES OR GROSS PAID SALES FIGURES
3 BETWEEN THE BRAND CONTRIBUTION SHEET AND THE COST SHEET,
4 WHICH FIGURES WILL BE INCORPORATED INTO THE CONSOLIDATED
5 INCOME STATEMENT, THE COST SHEET FIGURES OR THE BRAND
6 CONTRIBUTION FIGURES?

7 MR. PHILLIPS: HE JUST SAID THESE
8 COULDN'T BE BECAUSE THEY ARE PREPARED AFTERWARDS. SO
9 IS YOUR QUESTION REALLY ARE THE COST SHEET FIGURES THE
10 ONES THAT ARE INCORPORATED?

11 MR. CONDREN: I'M TRYING TO FIGURE OUT
12 IN THE CASE OF THE DISCREPANCY BETWEEN A BRAND
13 CONTRIBUTION VARIABLE MARGIN OR GROSS PAID SALES FIGURE
14 AND COST SHEET GROSS PAID SALES VARIABLE MARGIN OR GROSS
15 PAID SALES FIGURES WHICH GETS INCORPORATED INTO
16 CONSOLIDATED INCOME STATEMENT.

17 MR. PHILLIPS: HE JUST ANSWERED IT'S
18 NOT THE BRAND CONTRIBUTION BECAUSE THIS IS NOT A SOURCE
19 DOCUMENT FOR THAT, IT'S PREPARED AFTERWARDS.

20 Q. IS IT THE COST SHEETS?

21 A. OKAY. I'M GOING BACK ONE MORE TIME;
22 THAT GENERAL ACCOUNTING BOOKS THE ACTUAL ENTRIES THAT
23 ULTIMATELY END UP INTO THE CONSOLIDATED INCOME
24 STATEMENT. WHETHER THEY USE THE COST SHEET AS A SOURCE
25 OR SOME OTHER DOCUMENT AS THEIR SOURCE FOR EACH

1 RESPECTIVE ENTRY, I CANNOT ATTEST TO BECAUSE I'M NOT
2 THAT CLOSE TO THE DETAILS.

3 Q. BUT IT'S YOUR UNDERSTANDING THAT THE
4 GROSS PAID SALES AND VARIABLE MARGIN FIGURES THAT
5 APPEAR ON THE COST SHEETS SHOULD BE INCORPORATED IN
6 SOME FORM INTO THE CONSOLIDATED INCOME STATEMENT?

7 MR. PHILLIPS: OBJECTION. GO AHEAD.

8 A. THERE SHOULD BE SOME RELATIONSHIP
9 THERE, YES.

10 Q. ARE THE COST SHEETS CREATED BEFORE THE
11 CONSOLIDATED INCOME STATEMENT FOR A PARTICULAR MONTH?

12 A. YES.

13 Q. I MAY HAVE ASKED THIS ALREADY, I
14 APOLOGIZE IF I HAVE, BUT WHERE DOES THE INFORMATION FOR
15 GROSS PAID SALES AND VARIABLE MARGIN THAT APPEARS IN THE
16 BRAND CONTRIBUTION SHEETS COME FROM?

17 A. I'M NOT EXACTLY SURE WHERE THEY ARE
18 COMING FROM.

19 Q. IF YOU WILL LOOK AT THE LINE ITEM
20 ADVERTISING MEDIA FOR BRAND CONTRIBUTION, MR. WILSON,
21 WHAT TYPES OF EXPENSES IS THAT LINE ITEM DESIGNED TO
22 REFLECT ON THE BRAND CONTRIBUTION SHEETS?

23 A. TYPES OF EXPENSES, YOU MEAN THE NATURE
24 OF THE EXPENSE?

25 Q. YES.

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1 A. ANY TYPE OF MEDIA ADVERTISEMENT SUCH
2 AS NEWSPAPERS, BILLBOARDS, AGENCY FEES, PROMOTION FEES.

3 Q. WERE ANY OF THOSE TYPES OF EXPENSES
4 INCURRED FOR GENERICS IN 1984 AND 1985, TO THE BEST OF
5 YOUR RECOLLECTION, WITHOUT REFERENCE TO THE DOCUMENT?

6 MR. PHILLIPS: NO. WOULD IT HELP YOUR
7 RECOLLECTION TO REFERENCE THE DOCUMENT?

8 THE WITNESS: YES.

9 MR. PHILLIPS: THEN REFERENCE THE
10 DOCUMENT.

11 Q. FINE.

12 A. I'M NOT AWARE OF ANY.

13 Q. LET'S MARK FOR IDENTIFICATION WILSON
14 EXHIBIT EXHIBIT 20, WHICH IS GOING TO BE A 3-PART
15 EXHIBIT. LET ME JUST READ INTO THE RECORD WHAT THESE
16 ARE.

17 EXHIBIT 20-A IS ADVERTISING MEDIA NEW
18 PRODUCT DEVELOPMENT-PROJECT VOLUME MONTHLY BUDGET
19 REPORTS FOR MAY 1984 THROUGH OCTOBER 1984, DOCUMENT
20 NUMBERS 91881, 80, 79, 78, 77 AND 76.

21 EXHIBIT 20-B IS MONTHLY BUDGET
22 REPORTS FOR ADVERTISING MEDIA, NEW PRODUCT DEVELOPMENT-
23 GENERICS FOR NOVEMBER 1984 THROUGH DECEMBER OF 1985,
24 DOCUMENT NUMBERS 91875, 74, 72, 70, 68, 66, 64, 62, 6
25 -- EXCUSE ME -- 183697, 695, 693, 691, 689 AND 687.

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1 AND EXHIBIT 20-C IS MONTHLY BUDGET
2 REPORTS ADVERTISING MEDIA NEW PRODUCT
3 DEVELOPMENT-BRANDED GENERICS FOR JANUARY 1985 THROUGH
4 DECEMBER, 1985, DOCUMENT NUMBERS 91873, 74. IT APPEARS
5 TO BE FOR THE FEBRUARY 1985 REPORT, 69, 67, 65, 63,
6 183696, 694, 692, 690, 688 AND 686.

7 (WHEREUPON, WILSON DEPOSITION EXHIBITS
8 20-A, B AND C WERE MARKED FOR IDENTIFICATION.)

9 CAN YOU IDENTIFY ALL OR ANY OF THESE
10 EXHIBITS AND SUB PARTS, MR. WILSON?

11 Q. LET'S START WITH 20-A.

12 A. 20-A IS A BROWN & WILLIAMSON TOBACCO
13 MONTHLY BUDGET REPORT ADVERTISING MEDIA NEW PRODUCT
14 DEVELOPMENT. IT'S THE SUB HEADING PROJECT VOLUME.
15 IT'S MAY, JUNE, AND JULY, SEPTEMBER AND OCTOBER MONTHLY
16 REPORT.

17 Q. WHO PREPARED THESE MONTHLY REPORTS
18 THAT COMPRISE EXHIBIT 20-A, MR. WILSON?

19 A. THEY ARE A SYSTEM GENERATED REPORT.

20 Q. IS THERE ANYONE AT BROWN & WILLIAMSON
21 WHO IS RESPONSIBLE FOR SEEING THAT THESE REPORTS ARE
22 GENERATED ACCURATELY?

23 A. IT WOULD BE THE MARKETING ACCOUNT IN
24 THE GENERAL ACCOUNTING DEPARTMENT THAT HAD PRIMARY
25 RESPONSIBILITY.

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1 Q. WHO IS THAT PERSON IN MAY OF 1984
2 THROUGH OCTOBER OF 1984?

3 A. I DON'T RECALL.

4 Q. WAS MR. ECKMANN IN CHARGE OF THE
5 GENERAL ACCOUNTING DEPARTMENT AT THE TIME THESE
6 DOCUMENTS WERE GENERATED?

7 A. I BELIEVE SO. DOUG BROWN MAY HAVE
8 COME IN AT THE LATTER PART.

9 Q. OF 1984?

10 A. NO -- 1984, I'M SORRY. I'M THINKING
11 1985.

12 Q. CAN YOU TELL ME WHAT THE REFERENCE IS
13 IN THE HEADING OF THESE REPORTS TO PROJECT VOLUME?

14 A. IT'S JUST A NOMENCLATURE USED BY THE
15 MARKETING GROUP TO DESCRIBE THE PROJECT OR CODE NAME OF
16 THE PROJECT.

17 Q. THE PROJECT BEING GENERICS?

18 A. THE PROJECT BEING GENERICS.

19 Q. WERE THERE NO NEW PRODUCT DEVELOPMENT
20 EXPENSES INCURRED FOR GENERICS THROUGH OCTOBER OF 1984,
21 MR. WILSON?

22 A. BY LOOKING AT THESE REPORTS, I COULD
23 DRAW THAT CONCLUSION.

24 Q. DO YOU HAVE A RECOLLECTION
25 INDEPENDENT OF WHAT APPEARS IN THESE REPORTS?

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1 A. NO, SIR.

2 Q. LET'S LOOK AT EXHIBIT 20-B. CAN YOU
3 IDENTIFY THAT, MR. WILSON?

4 A. IT'S A SIMILAR REPORT, BROWN &
5 WILLIAMSON TOBACCO MONTHLY BUDGET REPORT ADVERTISING
6 MEDIA NEW PRODUCT DEVELOPMENT, GENERICS. IT'S FOR THE
7 MONTH OF NOVEMBER AND DECEMBER. IT'S JANUARY THROUGH
8 DECEMBER OF '85 AND IT REFERENCES GENERICS.

9 Q. ARE THE REPORTS THAT BEGIN WITH
10 APRIL, 1985 A CONTINUATION OF THE PRIOR REPORTS THAT
11 BEGIN WITH NOVEMBER 1984 THAT ARE STAPLED TOGETHER AS
12 PART OF THIS EXHIBIT?

13 A. RUN THAT ONE BY ME AGAIN.
14 (WHEREUPON, THE REPORTER THEN READ THE
15 RECORD.)

16 MR. PHILLIPS: ARE THESE THE SAME AS
17 THESE?

18 Q. I'M NOT ASKING IF THEY ARE THE SAME,
19 I'M ASKING IF THEY ARE A CONTINUATION OF THE PRIOR
20 REPORTS.

21 A. THEY ARE DETAIL PAGES TO A SUMMARY
22 REPORT, YES.

23 Q. BUT IS THE APRIL 1985 ADVERTISING
24 MEDIA NPD GENERICS REPORT A CONTINUATION OF THE MARCH
25 1985 ADVERTISING MEDIA NEW PRODUCT DEVELOPMENT-GENERICS

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1 REPORT?

2 A. YES, THE FORMAT CHANGED.

3 Q. IF YOU LOOK BACK AT THE FIRST PAGE OF
4 THIS EXHIBIT, MR. WILSON, CAN YOU TELL ME WHAT KIND OF
5 EXPENSES ARE REFLECTED UNDER THE LINE ITEM FEES?

6 A. TO ELABORATE AS TO EXACTLY WHAT THOSE
7 EXPENSES ARE, NO, I CAN'T.

8 Q. DO YOU KNOW GENERALLY SPEAKING WHAT
9 KINDS OF EXPENSES THEY ARE?

10 A. OTHER THAN BEING A NATURE OF A FEE,
11 NO.

12 Q. CAN YOU TELL ME WHAT KINDS OF EXPENSES
13 ARE INCLUDED UNDER THE LINE ITEM PACKAGE DESIGN?

14 A. AS TO THE NATURE OF IT, NO.

15 Q. CAN YOU TELL ME WHAT KINDS OF
16 EXPENSES ARE INCLUDED UNDER THE LINE PACKAGE CYLINDERS?

17 A. SUPPOSEDLY THAT'S THE COST OF THE
18 CYLINDERS, PRODUCTION OF THE CYLINDERS.

19 Q. WHAT ARE CYLINDERS, MR. WILSON?

20 A. AS I UNDERSTAND IT CYLINDERS ARE USED
21 TO PREPARED TO USE TO MANUFACTURE -- CALL IT LABELS --
22 USED TO MANUFACTURE MANUFACTURE MATERIALS, IF I SAID
23 THAT RIGHT.

24 Q. ARE THESE CYLINDERS THAT WERE ACTUALLY
25 USED IN MANUFACTURING MATERIALS FOR GENERIC CIGARETTES?

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1 A. I DON'T KNOW.

2 Q. DO YOU KNOW HOW LONG THESE CYLINDERS
3 LAST?

4 A. NO, SIR.

5 Q. IF YOU WILL LOOK AT THE NEXT PAGE,
6 MR. WILSON, CAN YOU TELL ME WHAT KINDS OF EXPENSES ARE
7 INCLUDED UNDER THE LINE PRODUCTION ON THAT PAGE?

8 A. NO, SIR.

9 Q. IF YOU WILL LOOK AT THE LAST PAGE, MR.
10 WILSON, CAN YOU TELL ME WHAT KINDS OF EXPENSES ARE
11 INCLUDED IN THE LINE OTHER-NPD?

12 A. NO, SIR.

13 Q. CAN YOU TELL ME, MR. WILSON, WHY THE
14 EXPENSES THAT APPEAR IN THE REPORTS THAT COMPRISE
15 EXHIBIT 20-B ARE NOT REFLECTED ON THE BRAND CONTRIBUTION
16 SHEETS UNDER THE LINE ITEM ADVERTISING MEDIA?

17 MR. PHILLIPS: OBJECTION.

18 A. WITHOUT LOOKING AT THE ACTUAL BRAND
19 CONTRIBUTION SHEETS I CAN'T TELL YOU WHETHER THEY ARE
20 INCLUDED OR NOT. I CAN TELL YOU THAT.

21 Q. BUT YOU CAN TELL ME WHETHER THEY ARE
22 INCLUDED IN THE LINE ADVERTISING MEDIA, CAN'T YOU?

23 A. THAT'S CORRECT. THEY ARE NOT
24 INCLUDED OBVIOUSLY IN THE ADVERTISING MEDIA BECAUSE
25 THERE ARE ZERO MONEYS SCORED THERE.

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1 Q. ARE THEY INCLUDED ELSEWHERE ON THE
2 BRAND CONTRIBUTION SHEETS?

3 A. I CAN'T TELL YOU THAT BY LOOKING AT
4 THE DETAIL SHEETS EITHER. I CAN TELL YOU THAT THE
5 INTENT IS NOT TO INCLUDE THEM.

6 Q. FROM WHAT YOU UNDERSTAND THESE
7 EXPENSES TO BE, MR. WILSON, WOULD YOU CHARACTERIZE THEM
8 AS ADVERTISING MEDIA EXPENSES?

9 MR. PHILLIPS: AS THAT TERM IS USED
10 ON THE BRAND CONTRIBUTION SHEET OR GENERALLY?

11 Q. BASED ON HIS UNDERSTANDING OF THE TERM
12 ADVERTISING MEDIA, WHICH MAY BE DERIVED FROM ITS USE ON
13 THE BRAND CONTRIBUTION SHEETS OR ELSEWHERE.

14 A. I THINK THEY ARE -- GENERALLY FALL
15 WITHIN THE SAME CATEGORY, YES.

16 Q. WERE YOU INSTRUCTED NOT TO INCLUDE
17 THEM UNDER ADVERTISING MEDIA EXPENSES ON THE BRAND
18 CONTRIBUTION SHEETS?

19 MR. PHILLIPS: OBJECTION.

20 A. WE HAVEN'T REALLY AGREED THE DOLLARS
21 ARE NOT IN HERE. I CAN'T TELL YOU WHETHER THEY ARE IN
22 HERE OR NOT WITHOUT LOOKING AT THESE NUMBERS, OKAY?

23 Q. RIGHT. MY QUESTION IS: WERE YOU
24 INSTRUCTED NOT TO INCLUDE THEM ON THE ADVERTISING MEDIA
25 LINE OF THE BRAND CONTRIBUTION REPORTS?

1 A. IT WAS AGREED TO NOT INCLUDE THEM IN
2 THE NEW PRODUCT DEVELOPMENT SPENDING.

3 Q. BY WHOM WAS IT AGREED?

4 A. MR. TUCKER AND MYSELF AND MR. BACON.

5 Q. YOU AND MR. TUCKER AND MR. BACON HAD
6 CONVERSATIONS REGARDING WHETHER THOSE EXPENSES SHOULD BE
7 INCLUDED ON THE ADVERTISING MEDIA LINE FOR BRAND
8 CONTRIBUTION?

9 A. THAT'S CORRECT.

10 Q. DID YOU ALL AGREE THEY SHOULD NOT BE
11 INCLUDED THERE?

12 A. I BELIEVE THAT'S CORRECT.

13 Q. DID MR. BACON MAKE THE FINAL DECISION
14 WHETHER THEY WOULD BE INCLUDED THERE?

15 A. YEAH, HE AGREED WITH OUR
16 RECOMMENDATION, YES.

17 Q. IF YOU WILL LOOK AT EXHIBIT 20-C, MR.
18 WILSON, CAN YOU IDENTIFY THAT FOR ME, PLEASE?

19 A. SAYS, "MONTHLY BUDGET REPORT
20 ADVERTISING MEDIA, NEW PRODUCT DEVELOPMENT, BRANDED
21 GENERICS."

22 Q. DO YOU KNOW WHO PREPARED THE REPORTS
23 THAT CONSTITUTE THIS EXHIBIT?

24 A. IT WOULD BE THE SAME MARKETING ACCOUNT
25 THAT HAS PRIMARY RESPONSIBILITY FOR THE DISTRIBUTION OF

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1 THESE REPORTS. THAT PERSON RESIDES IN GENERAL
2 ACCOUNTING.

3 Q. AND THAT PERSON WOULD BE THE SAME ONE
4 WHO WAS RESPONSIBLE FOR THE PREPARATION OF EXHIBITS 20-
5 A AND 20-B?

6 A. THAT'S CORRECT.

7 Q. CAN YOU EXPLAIN TO ME WHAT THE TERM
8 BRANDED GENERICS MEANS AS IT IS USED IN THESE REPORTS,
9 MR. WILSON?

10 A. COULD BE SYNONYMOUS WITH A PRIVATE
11 LABEL, THAT BEING A GENERIC THAT'S NOT CONSTRUED AS
12 BEING BLACK AND WHITE IN NATURE.

13 Q. MAJOR BRAND, FOR EXAMPLE?

14 A. THAT'S A POSSIBILITY, YES.

15 Q. ARE THERE ANY OTHER POSSIBILITIES
16 OTHER THAN WHAT YOU HAVE JUST CHARACTERIZED AS A PRIVATE
17 LABEL WHAT COULD BE MEANT BY THE TERM BRANDED GENERICS
18 AS IT APPEARS IN THESE REPORTS?

19 MR. PHILLIPS: ANY OTHER
20 POSSIBILITIES THAT HE IS AWARE OF?

21 Q. THAT'S ALL HE CAN ANSWER.

22 A. I'M NOT AWARE OF ANY OTHERS.

23 Q. DO YOU KNOW WHO DECIDED TO USE THE
24 TERMINOLOGY BRANDED GENERICS IN THESE REPORTS AS OPPOSED
25 TO PRIVATE LABEL?

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1 A. I DON'T KNOW THE PARTICULAR
2 INDIVIDUAL, NO.

3 Q. DID YOU EVER HAVE ANY DISCUSSIONS
4 WITH ANYONE AS TO WHAT HEADING WOULD BE USED FOR THE
5 REPORTS THAT CONSTITUTE EXHIBIT 20-C?

6 A. I DON'T RECALL ANY SUCH CONVERSATIONS.

7 Q. IF YOU WILL LOOK ON THE FIRST REPORT,
8 MR. WILSON, UNDER THE MONTH ACTUAL FIGURE YOU WILL SEE A
9 CREDIT FOR -- IS THAT \$288?

10 A. THAT'S CORRECT.

11 Q. DO YOU KNOW WHAT THAT CREDIT WAS FOR?

12 A. NO, SIR.

13 Q. DO YOU KNOW WHETHER THERE WERE REPORTS
14 OF THIS NATURE PREPARED IN 1984?

15 MR. PHILLIPS: YOU MEAN SCHEDULE

16 M-4A.95?

17 Q. YES, OR ANY OTHER SCHEDULES THAT --

18 MR. PHILLIPS: PURPORT TO HAVE THE
19 SAME INFORMATION?

20 Q. YES.

21 A. I'M NOT AWARE OF ANY, NO.

22 Q. WERE THERE NEW PRODUCT DEVELOPMENT
23 EXPENSES INCURRED FOR BRANDED GENERICS IN 1984?

24 A. I'M NOT AWARE OF ANY.

25 Q. LET'S MARK FOR IDENTIFICATION WILSON

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1 EXHIBIT 21, WHICH IS A ONE-PAGE HANDWRITTEN NOTE TO TOM
2 FROM GWENDA DATED OCTOBER 2ND, 1984.

3 (WHEREUPON, WILSON DEPOSITION EXHIBIT
4 21 WAS MARKED FOR IDENTIFICATION.)

5 Q. THE DOCUMENT NUMBER IS 172326.

6 CAN YOU IDENTIFY THIS DOCUMENT, MR.
7 WILSON?

8 A. IT'S APPARENTLY A FILE NOTE TO ME FROM
9 GWEN WILLINGHAM.

10 Q. DOES THIS REFRESH YOUR RECOLLECTION
11 THERE WERE NEW PRODUCT DEVELOPMENT EXPENSES INCURRED
12 FOR BRANDED GENERICS IN 1984?

13 A. IT LEADS ME TO BELIEVE WE HAD SOME.

14 Q. DOES IT REFRESH YOUR RECOLLECTION
15 THAT THERE WERE NEW PRODUCT DEVELOPMENT MONTHLY REPORTS
16 CREATED FOR BRANDED GENERICS IN 1984?

17 A. I'M STILL NOT AWARE OF ANY.

18 Q. IF YOU WILL LOOK AT THE APRIL 1985
19 REPORT FOR BRANDED GENERICS THAT IT'S PART OF EXHIBIT
20 20-C, IS THE APRIL 1985 REPORT A CONTINUATION OF THE
21 MARCH '85 REPORT THAT IMMEDIATELY PRECEDES IT IN THIS
22 EXHIBIT?

23 A. I BELIEVE SO.

24 Q. WHAT IS THE BASIS FOR YOUR BELIEF THAT
25 IS A CONTINUATION OF THE MARCH '85 REPORT?

1 A. WELL, I'M LOOKING AT THE MARCH 1985
2 REPORT WHICH HAS A TOTAL ADVERTISING EXPENSE OF 11,748.
3 IF I TAKE THE CURRENT MONTH ACTUAL OF 49,287, A
4 COMBINATION OF THOSE 2 NUMBERS GIVES ME 61,035, WHICH IS
5 THE YEAR TO DATE TOTAL ON THE APRIL REPORT.

6 Q. LET'S MARK FOR IDENTIFICATION WILSON
7 EXHIBIT 22, WHICH IS IS A ONE-PAGE MEMORANDUM WITH
8 ATTACHMENTS TO MR. C.J. HEGER, CC TO MR. B.E. BACON AND
9 OTHERS FROM MR. E.P. TUCKER, DATED OCTOBER 5, 1984, PAGE
10 NUMBERS ARE 162048 THROUGH 050.

11 (WHEREUPON, WILSON DEPOSITION EXHIBIT
12 22 WAS MARKED FOR IDENTIFICATION.)

13 Q. CAN YOU IDENTIFY THIS DOCUMENT, MR.
14 WILSON?

15 A. IT'S A MEMORANDUM FROM GENE TUCKER
16 DATED OCTOBER 5, 1984.

17 Q. DID YOU EVER RECEIVE A COPY OF IT?

18 A. I DON'T REMEMBER.

19 Q. DO YOU KNOW WHETHER THE \$446,000
20 APPLICABLE TO PRODUCT DEVELOPMENT WERE WHAT MR. TUCKER
21 REFERS TO ON THE FIRST PAGE IS REFLECTED IN THE MONTHLY
22 BUDGET REPORTS THAT WE'VE LOOKED AT IN EXHIBIT 20?

23 A. I THINK THAT THE \$446,000 THAT GENE
24 REFERENCED IS -- COULD BE INCLUDED IN YOUR NEW PRODUCT
25 DEVELOPMENT GENERICS BUDGET MATHS.

1 Q. WHAT IS THE BASIS FOR YOUR CONCLUSION
2 THAT COULD BE INCLUDED WITHIN THOSE REPORTS?

3 A. WE DID AN EVALUATION IN, I BELIEVE IN
4 THE LATTER PART OF '84, TO TRY TO IDENTIFY ALL YOUR NEW
5 PRODUCT DEVELOPMENT COSTS AND IN DOING THAT I THINK WE
6 INVESTIGATED NEW PRODUCT DEVELOPMENT ACCOUNT ITSELF,
7 BUDGET MATH ITSELF.

8 Q. DO YOU KNOW WHAT MR. TUCKER IS
9 REFERRING TO WHEN HE SAYS THAT THESE NEW PRODUCT
10 DEVELOPMENT EXPENSES HAVE, "NOT BEEN APPLIED AGAINST THE
11 GENERIC PROPOSITION"?

12 A. I INTERPRET THAT TO MEAN THAT HE IS
13 NOT CHARGING BRAND CONTRIBUTION FOR THAT EXPENSE.

14 Q. THAT WOULD BE CONSISTENT WITH THE FACT
15 THAT THE NEW PRODUCT DEVELOPMENT EXPENSES ARE NOT
16 REFLECTED ON THE BRAND CONTRIBUTION SHEET UNDER THE
17 ADVERTISING MEDIA LINE?

18 MR. PHILLIPS: OBJECTION.

19 A. THERE AGAIN, THERE PROBABLY -- I CAN'T
20 HONESTLY SAY IN EVERY MONTH THAT YOU DON'T HAVE OR YOU
21 DO HAVE NEW PRODUCT DEVELOPMENT SPENDING IN OR OUT OF
22 THESE NUMBERS, OKAY? SO I CAN'T ANSWER THAT QUESTION.

23 Q. IS IT YOUR UNDERSTANDING THAT MR.
24 TUCKER MEANT IN THIS MEMO THAT NEW PRODUCT DEVELOPMENT
25 EXPENSES WOULD NOT BE EMPLOYED ANYWHERE AGAINST BRAND

1 CONTRIBUTION?

2 MR. PHILLIPS: UNDERSTANDING AS HE
3 READS IT NOW OR UNDERSTANDING AS HE MAY HAVE READ IT, IF
4 HE READ IT, IN 1984?

5 Q. HIS UNDERSTANDING AS HE READS IT NOW.

6 A. IT WOULD GET CHARGED AGAINST TOTAL
7 CORPORATION BRAND CONTRIBUTION.

8 Q. AND THAT WOULD BE REFLECTED ON THE
9 CONSOLIDATED INCOME STATEMENT?

10 A. YES.

11 Q. UNDER WHAT LINE ITEM WOULD THESE
12 EXPENSES BE INCLUDED ON THE CONSOLIDATED INCOME
13 STATEMENT?

14 A. ADVERTISING MEDIA.

15 Q. DO YOU KNOW WHY THE EXPENSES WOULD BE
16 INCLUDED IN TOTAL BRAND CONTRIBUTION BUT NOT BE INCLUDED
17 IN GENERIC BRAND CONTRIBUTION?

18 MR. PHILLIPS: OBJECTION.

19 A. THE INTENT OF BRAND CONTRIBUTION -- IT
20 HAS BEEN NORMAL PRACTICE FOR B&W NOT TO INCLUDE ANY
21 DEVELOPMENTAL COSTS RELEVANT TO A NEW PRODUCT ENTRY, SO
22 TO MAINTAIN THE CONSISTENCY IN OUR MATCHING OF BRAND
23 CONTRIBUTION WITH OUR ESTABLISHED BRAND REPORTING, WE
24 WOULD NOT CHARGE GENERICS BRAND CONTRIBUTION WITH NEW
25 PRODUCT DEVELOPMENT TYPE COSTS.

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1 WE HAVE A -- CALL IT SEPARATE
2 CATEGORY WITHIN THE BRAND CONTRIBUTION REPORTING SECTION
3 THAT COVERS ALL NEW PRODUCT DEVELOPMENT COSTS, WHETHER
4 IT BE FOR GENERICS OR WHETHER IT BE FOR ANY OTHER NEW
5 PRODUCT OR BRAND EXTENSION.

6 Q. YOU'RE TALKING ABOUT THE OVERALL
7 BRAND CONTRIBUTION?

8 A. OVERALL, YES. SO MY POINT IS THAT WHY
9 WE INTENDED TO EXCLUDE NEW PRODUCT DEVELOPMENT COSTS
10 FROM GENERIC BRAND CONTRIBUTION IS BECAUSE OF
11 MAINTAINING CONSISTENT PRACTICE OF NOT CHARGING ANY OF
12 OUR BRANDS WITH NEW PRODUCT DEVELOPMENT COSTS.

13 Q. BUT AS YOU'VE STATED NEW PRODUCT
14 DEVELOPMENT COSTS WOULD BE APPLIED AGAINST TOTAL BRAND
15 CONTRIBUTION EACH MONTH ON THE INCOME STATEMENT?

16 MR. PHILLIPS: OBJECTION.

17 A. BRAND NEW PRODUCT DEVELOPMENT COSTS
18 WOULD BE A DEDUCTION TO ARRIVE AT TOTAL BRAND
19 CONTRIBUTION FOR THE CORPORATION.

20 Q. THAT IS REFLECTED EACH MONTH IN THE
21 CONSOLIDATED INCOME STATEMENT?

22 A. THAT'S CORRECT.

23 Q. IF YOU WILL LOOK AT THE OCTOBER 1984
24 BRAND CONTRIBUTION SHEET, MR. WILSON, LOOKING BACK TO
25 WILSON 19 FOR THE MOMENT --

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1 MR. PHILLIPS: THE SECOND PAGE OF THE
2 EXHIBIT?

3 Q. YES. WHERE DOES THE OPERATING
4 VARIANCE NUMBER COME FROM THAT APPEARS ON THIS PAGE?

5 A. IT COMES FROM A VARIANCE MANAGEMENT
6 INCOME STATEMENT -- THAT'S NOT TRUE.

7 IN THIS PARTICULAR CASE, BECAUSE IN
8 1984 WE DIDN'T HAVE A BUDGET, YOUR ACTUAL SPENDING IS
9 YOUR OPERATING PRICE.

10 Q. SO, IN OTHER WORDS, FOR OCTOBER 1984,
11 SINCE THERE WAS NO BUDGETED BRAND CONTRIBUTION, AND
12 THERE WAS AN ACTUAL BRAND CONTRIBUTION OF 721,000, THAT
13 WOULD MEAN THERE WAS AN OPERATING VARIANCE OF \$721,000
14 FAVORABLE?

15 A. THAT'S EXACTLY WHAT THIS REPORT SAYS,
16 YES.

17 Q. CAN YOU TELL ME, MR. WILSON, WHAT THE
18 REFERENCE IS TO COMMITTED UNDER ANNUAL BRAND SPENDING
19 FOR ADVERTISING MEDIA AND SALES PROMOTION SPECIFIC ON
20 THIS PAGE?

21 A. TO THE BEST OF MY KNOWLEDGE THIS PART
22 OF THE REPORT IS USED BY A MARKETING PEOPLE IN ARRIVING
23 AT WHAT THEIR COMMITTED SPENDING IS OVER AND ABOVE WHAT
24 THEY'VE ALREADY SPENT TO DATE.

25 Q. SO DOES THAT MEAN THAT THE ZERO

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1 FIGURES THAT APPEAR IN THE COMMITTED COLUMN ON THIS
2 PAGE, DOES THAT MEAN THAT THERE WAS NO MORE COMMITTED
3 THAN HAD BEEN SPENT AT THAT TIME?

4 A. THAT'S MY UNDERSTANDING.

5 Q. WHAT DOES THE AUTHORIZED COLUMN
6 REPRESENT?

7 A. THAT IS THE CURRENT AMOUNT IN WHICH
8 MANAGEMENT HAS AGREED TO SPEND FOR THE ENTIRE YEAR.

9 Q. IS AUTHORIZED ALWAYS THE SUM OF
10 COMMITTED AND UNCOMMITTED IN THE BRAND CONTRIBUTION
11 SHEETS?

12 A. I DON'T KNOW THAT.

13 Q. IF YOU WILL LOOK AT THE JANUARY 1985
14 BRAND CONTRIBUTION SHEET, MR. WILSON, CAN YOU TELL ME
15 HOW THE OPERATING VARIANCE NUMBER IS DERIVED THAT
16 APPEARS ON THAT SHEET?

17 A. IN THIS CASE, SINCE YOU HAVE A BUDGET,
18 THE STARTING POINT IS YOU ARRIVE AT A NUMBER ACTUAL
19 VERSUS BUDGET AND THEN YOU EXCLUDE THE TIMING
20 DIFFERENCES. THE TIMING DIFFERENCES ARE EXCLUDED
21 THROUGH ANOTHER REPORT.

22 Q. ALL RIGHT. SO IF YOU, FIRST OF ALL,
23 COMPARE THE ACTUAL WITH THE BUDGET, IN THIS CASE WHAT
24 WILL YOU COME UP WITH FOR JANUARY, 1985?

25 A. AS THIS REPORT REFLECTS YOU COME UP

1 WITH \$24,000.

2 Q. WHAT IS THE VARIANCE BETWEEN THOSE 2?

3 MR. PHILLIPS: VARIANCE BETWEEN --

4 Q. I'M SORRY, THE VARIANCE IS 24?

5 A. YES, SIR.

6 Q. BETWEEN THE ACTUAL AND THE BUDGET?

7 A. YES, SIR.

8 Q. HOW DO YOU GET FROM THE 24 TO THE 398?

9 A. AS I SAID THERE IS ANOTHER REPORT

10 THAT IDENTIFIES WHAT WE CALL TEMPORARY VARIANCES WHICH
11 ARE REPRESENTATIVE OF TIMING VARIANCES. THOSE VARIANCES
12 ARE EXTRACTED OUT OF THIS VARIANCE AND YOU COME UP WITH
13 AN OPERATING VARIANCE.

14 Q. ARE THERE TEMPORARY VARIANCES THAT
15 CARRY OVER FROM ONE YEAR TO THE NEXT?

16 A. NO.

17 Q. SO THAT THE YEAR-TO-DATE OPERATING
18 VARIANCE ON THE BRAND CONTRIBUTION SHEETS SHOULD ALWAYS
19 BE THE DIFFERENCE BETWEEN ACTUAL AND BUDGET; IS THAT
20 CORRECT?

21 A. I DON'T BELIEVE SO BUT RESTATE YOUR
22 QUESTION.

23 Q. THE DIFFERENCE BETWEEN THE 24 AND THE
24 38 IN JANUARY OF 1985 IS, AS YOU'VE TESTIFIED,
25 ATTRIBUTABLE TO TEMPORARY VARIANCES?

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1 A. THAT'S CORRECT.

2 Q. ALL THE TEMPORARY VARIANCES HAVE BEEN
3 NETTED OUT AT THE END OF A PARTICULAR YEAR?

4 A. YES. SAY IT ANOTHER WAY. IF YOU WERE
5 TO LOOK AT YOUR DECEMBER REPORT, THERE SHOULD NOT BE ANY
6 TIMING DIFFERENCES OR TEMPORARY VARIANCES.

7 Q. ARE YOU TALKING ABOUT THE DECEMBER
8 BRAND CONTRIBUTION REPORT?

9 A. YES.

10 Q. SO WHAT I'M SAYING THEN IS SINCE
11 THAT'S THE CASE, THE OPERATING VARIANCE FIGURE, IF IT
12 WERE FILLED IN HERE, SHOULD BE THE DIFFERENCE BETWEEN
13 ACTUAL AND BUDGET?

14 A. THAT'S CORRECT. THAT'S WHY IT'S NOT
15 INCLUDED. IT'S ONE AND THE SAME.

16 Q. I UNDERSTAND. DO YOU RECALL, MR.
17 WILSON, HOW OFTEN, IF AT ALL, THE LATEST REVISED PLAN AS
18 IT APPEARS ON THE BRAND CONTRIBUTION SHEETS WAS REVISED
19 FOR GENERICS IN 1984 AND 1985?

20 A. NO, SIR, I DON'T RECALL THE NUMBER OF
21 TIMES.

22 Q. FOR WHATEVER REVISIONS WERE MADE DO
23 YOU KNOW WHO DECIDED TO MAKE THOSE REVISIONS?

24 A. THEY WOULD HAVE BEEN AGREED UPON WITH
25 TONY BACON.

1 Q. DID MR. HEGER HAVE ANY INPUT INTO
2 THOSE DECISIONS?

3 A. I DON'T KNOW.

4 Q. LET'S MARK FOR IDENTIFICATION WILSON
5 EXHIBIT 23 WHICH IS A COMPILATION OF THE BROWN &
6 WILLIAMSON BRAND CONTRIBUTION (BEFORE RETURNS) SHEETS
7 FOR 1984 AND 1985.

8 (WHEREUPON, WILSON DEPOSITION EXHIBIT
9 23 WAS MARKED FOR IDENTIFICATION.)

10 MR. PHILLIPS: WHAT EXHIBIT IS IT?

11 Q. 23. THESE ARE DOCUMENT NUMBERS
12 43987A, 43994, 44001, 09, 16, 23, 31, 404, 47, 56, 64,
13 71, 181871, 181921, 967 AND 182013.

14 (WHEREUPON, WILSON DEPOSITION EXHIBIT
15 23 WAS MARKED FOR IDENTIFICATION.)

16 Q. CAN YOU IDENTIFY ALL OR ANY PART OF
17 THIS DOCUMENT, MR. WILSON?

18 A. IT'S A BRAND CONTRIBUTION REPORT
19 BEFORE RETURNS. IT IS ONE OF THE PAGES INCLUDED IN THE
20 MONTHLY FINANCIAL REPORT.

21 Q. WHAT IS THE MONTHLY FINANCIAL REPORT
22 YOU JUST REFERRED TO?

23 A. IT'S A DOCUMENT THAT THE BUDGET
24 DEPARTMENT RELEASES TO MANAGEMENT EACH MONTH ON THE
25 MONTH'S OPERATIONS.

1 MR. PHILLIPS: JIM, I HAVE BEEN
2 INFORMED YOU HAVE THOSE REPORTS.

3 MR. CONDREN: DO YOU HAVE ANY OF THE
4 DATE NUMBERS?

5 MR. PHILLIPS: I HAVE BEEN TOLD THAT
6 THEY ARE -- I THINK THEY ARE IN THE 157,000 RANGE.

7 MR. CONDREN: DO YOU KNOW WHEN THEY
8 WERE PRODUCED, APPROXIMATELY?

9 MR. PHILLIPS: WELL, IF THEY ARE IN
10 THE 157,000 RANGE, I WOULD THINK IT MUST HAVE BEEN
11 MONTHS AGO BECAUSE THE LAST NUMBERS THAT WE HAVE
12 PRODUCED ARE THE 187,000 RANGE. BUT, YOU KNOW, IF FOR
13 SOME REASON YOU DON'T HAVE THEM, LET ME KNOW.

14 MR. CONDREN: I WILL CHECK AGAIN TO
15 SEE IF WE HAVE THEM, BUT BASED ON OUR REVIEW OF THE
16 DOCUMENTS WE HAVE --

17 MR. PHILLIPS: I THINK IF YOU WILL --

18 MR. CONDREN: -- WE HAVEN'T LOCATED
19 THEM.

20 MR. PHILLIPS: OKAY. I THINK IF YOU
21 WILL TAKE A LOOK, I WAS TOLD LAST NIGHT, THAT YOU HAVE
22 THEM TO THE 157,000 RANGE.

23 MR. CONDREN: ALL RIGHT.

24 MR. PHILLIPS: I WOULD FILL IN THE
25 NUMBERS, BUT I DON'T KNOW MORE THAN THAT.

1 MR. CONDREN: I'LL LET YOU KNOW. I'LL
2 GO BACK AND LOOK.

3 MR. PHILLIPS: IF YOU DON'T HAVE THEM
4 LET ME KNOW. I'LL GET THEM FOR YOU.

5 Q. SURE. CAN YOU TELL ME WHO PREPARED
6 THESE DOCUMENTS, MR. WILSON?

7 A. IT WOULD BE THE MARKETING ANALYST IN
8 THE BUDGET DEPARTMENT.

9 Q. WAS THAT MR. BRUMLEVE AT SOMETIME IN
10 1984 OR 1985?

11 A. PART OF '84 AND ALL OF '85, YES.

12 Q. WHO ELSE HELD THAT POSITION IN 1984
13 BESIDES MR. BRUMLEVE?

14 A. GWEN WILLINGHAM.

15 Q. FOR EVERY MONTH DID THE SAME PERSON
16 PREPARE THE BRAND CONTRIBUTION SHEETS THAT COMPRISE
17 EXHIBIT 19 AND THE BRAND CONTRIBUTION SHEETS THAT
18 COMPRISE EXHIBIT 23?

19 A. I CAN'T SPEAK TO EVERY MONTH. NORMAL
20 PRACTICE WOULD BE FOR THE SAME PERSON TO PREPARE BOTH
21 DOCUMENTS.

22 Q. WERE THEY PREPARED SIMULTANEOUSLY
23 WITH EACH OTHER FOR ANY PARTICULAR MONTH?

24 A. NO.

25 Q. WHICH WAS PREPARED FIRST?

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1 PREPARING THESE REPORTS IN 1984 AND 1985 WHILE YOU WERE
2 HEAD OF THE DEPARTMENT THAT PREPARED THESE?

3 A. THERE COULD HAVE BEEN EXCEPTIONS TO
4 THOSE ESTABLISHED WAYS, YES.

5 Q. BUT WAS THERE A GENERALLY ESTABLISHED
6 WAY OF PREPARING THESE REPORTS?

7 A. YES.

8 Q. WOULD YOU HAVE BEEN AWARE OF ANY
9 EXCEPTION TO THE ESTABLISHED WAY OF PREPARATION?

10 A. I SHOULD HAVE BEEN.

11 Q. IS IT YOUR BELIEF THAT YOU WERE?

12 A. IN MOST INSTANCES, YES.

13 Q. DID YOU APPROVE THOSE EXCEPTIONS?

14 A. YES.

15 Q. WAS IT THE REGULAR PRACTICE OF BROWN
16 & WILLIAMSON TO PREPARE THESE REPORTS IN 1984 AND 1985?

17 A. YES.

18 Q. WAS THE INFORMATION THAT IS
19 INCORPORATED INTO THESE REPORTS ALSO PREPARED BY BROWN &
20 WILLIAMSON EMPLOYEES?

21 A. TO THE BEST OF MY KNOWLEDGE, YES.

22 Q. WHATEVER DOCUMENTS THAT WERE USED TO
23 PREPARE THESE REPORTS WERE DOCUMENTS THAT WERE CREATED
24 BY BROWN & WILLIAMSON EMPLOYEES?

25 A. REPEAT THAT AGAIN. I'M SORRY.

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1 (WHEREUPON, THE REPORTER THEN READ
2 THE RECORD.)

3 A. TO THE BEST OF MY KNOWLEDGE, YES.

4 Q. WAS IT PART OF THE JOB DUTIES OF
5 THOSE OTHER EMPLOYEES TO CREATE THOSE DOCUMENTS?

6 A. I DON'T KNOW.

7 Q. DO YOU HAVE ANY REASON TO BELIEVE THAT
8 IT WAS NOT?

9 MR. PHILLIPS: OBJECTION.

10 A. I DON'T HAVE A REASON TO BELIEVE
11 EITHER WAY.

12 Q. ARE THE BRAND CONTRIBUTION REPORTS,
13 EITHER EXHIBIT 19 OR EXHIBIT 23, DISTRIBUTED ANYWHERE
14 WITHIN THE FINANCE DEPARTMENT BEYOND THE BUDGET
15 DEPARTMENT?

16 A. YES. I'M SORRY, EXHIBIT 23 IS -- HAS
17 RELATIVELY WIDE DISTRIBUTION. EXHIBIT 19 HAS LIMITED
18 DISTRIBUTION.

19 Q. DOES EXHIBIT 23 GET DISTRIBUTED AS
20 PART OF THE REPORTS WE'VE DISCUSSED PREVIOUSLY?

21 MR. PHILLIPS: YOU MEAN MONTHLY
22 FINANCIAL STATEMENTS?

23 Q. YES.

24 A. NO.

25 Q. WHAT EXHIBIT DID I SAY?

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1 MR. PHILLIPS: HE'S TALKING ABOUT
2 THIS. IS THIS DISTRIBUTED AS PART OF THE MONTHLY
3 FINANCIAL STATEMENTS EACH PAGE OF THIS?

4 Q. EACH MONTH IS THAT PAGE DISTRIBUTED AS
5 PART OF THE MONTHLY FINANCIAL REPORTS THAT GET
6 DISTRIBUTED TO SENIOR MANAGEMENT?

7 A. YES.

8 Q. DOES EXHIBIT 19 HAVE ANY DISTRIBUTION
9 OUTSIDE OF THE BUDGET DEPARTMENT OR DID IT HAVE ANY
10 DISTRIBUTION IN 1984 AND 1985?

11 A. YES.

12 Q. TO WHOM WAS IT DISTRIBUTED OUTSIDE
13 THE BUDGET DEPARTMENT?

14 A. T.J. MOORING.

15 Q. WHAT WAS HIS POSITION IN 1984 AND
16 1985?

17 A. MARKETING -- HE'S MANAGER OF
18 MARKETING FINANCE.

19 Q. WAS IT DISTRIBUTED TO ANYONE ELSE
20 OUTSIDE THE BUDGET DEPARTMENT TO YOUR KNOWLEDGE BESIDES
21 MR. MOORING?

22 A. IT WAS NOT DISTRIBUTED BY THE BUDGET
23 DEPARTMENT TO ANYONE ELSE.

24 Q. DID MR. MOORING DISTRIBUTE IT TO
25 ANYONE WHEN HE RECEIVED IT?

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1 A. I BELIEVE SO.

2 Q. TO WHOM DID HE DISTRIBUTE IT?

3 A. I DON'T KNOW.

4 Q. DO YOU KNOW IF MR. BACON RECEIVED A
5 COPY OF THIS EVERY MONTH, EXHIBIT 19?

6 A. YES.

7 Q. HE DID?

8 A. (NODDED HEAD AFFIRMATIVELY.)

9 Q. MR. HEGER?

10 A. NO.

11 Q. MR. TUCKER FOR THE TIME PERIOD HE WAS
12 ASSISTANT CONTROLLER IN CHARGE OF BUDGET AND COST?

13 A. I BELIEVE SO.

14 Q. IF YOU LOOK AT PAGE ONE OF EXHIBIT 23,
15 MR. WILSON, CAN YOU TELL ME WHERE THE YEAR-TO-DATE
16 FIGURES UNDER ACTUAL AND VARIANCE FOR GENERICS ARE
17 DERIVED AT THE TOP OF THE PAGE, YEAR TO DATE BEING THE
18 12 FOR JULY 1984. WHERE DO THOSE NUMBERS COME FROM?

19 A. THE ACTUAL SOURCE DOCUMENT THAT JERRY
20 IS USING I'M NOT SURE.

21 Q. SHOULD THOSE NUMBERS MATCH UP FOR ANY
22 PARTICULAR MONTH WITH THE BRAND CONTRIBUTION FIGURE THAT
23 APPEARS ON EXHIBIT 19? WHY DON'T YOU COMPARE AUGUST
24 1984 FOR THOSE 2 REPORTS?

25 A. NORMALLY THEY SHOULD, YEAH, BUT THERE

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1 COULD BE EXCEPTIONS.

2 Q. WHAT WOULD CAUSE ANY EXCEPTIONS TO
3 THAT RULE?

4 A. IT COULD BE A SITUATION WHICH I THINK
5 EXISTED SOMETIME DURING THIS TIME PERIOD WHERE WE
6 DISCOVERED SOME INCORRECT AND INAPPROPRIATE CHARGE-OUTS,
7 AND WE MADE ADJUSTMENTS TO OUR NUMBERS TO REFLECT THE
8 PROPER CHARGEOUTS WHEREAS THE BOOKKEEPING LAGGED A MONTH
9 OR SO.

10 Q. WOULD THE INAPPROPRIATE CHARGE-OUTS
11 APPEAR ON EXHIBIT 19?

12 A. IT'S POSSIBLE. I DON'T KNOW.

13 Q. BUT IF THEY DID AND THEY WERE
14 CORRECTED BY THE TIME EXHIBIT 23 WAS PREPARED, THAT
15 WOULD CAUSE A DISCREPANCY BETWEEN THOSE 2 FIGURES?

16 A. THAT'S VERY POSSIBLE.

17 Q. FOR 1984, AGAIN IN THE REPORTS THAT
18 CONSTITUTE EXHIBIT 23, THE VARIANCE AND ACTUAL FIGURES
19 SHOULD BE IDENTICAL FOR EVERY MONTH BECAUSE THERE WAS NO
20 BUDGET FOR GENERICS FOR 1984; IS THAT CORRECT?

21 A. TO THE BEST OF MY KNOWLEDGE.

22 Q. SO THESE ARE ALWAYS VARIANCE FIGURES
23 FROM BUDGET?

24 A. YES, SIR, THERE IS NO BUDGET SO IT
25 WOULD ALL BE VARIANCE.

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1 Q. RIGHT. BUT THERE IS NO OTHER
2 STANDARD AGAINST WHICH ACTUAL BRAND CONTRIBUTION IS
3 COMPARED IN THE BRAND CONTRIBUTION SHEETS OTHER THAN
4 BUDGET?

5 A. THAT'S RIGHT.

6 Q. IF YOU LOOK AT THE BOTTOM OF THE
7 AUGUST^S 1984 BRAND CONTRIBUTION BEFORE RETURNS REPORT,
8 YOU WILL SEE CERTAIN CATEGORIES OF BRAND CONTRIBUTION
9 VARIANCES; THE FIRST BEING SPECIFIC ADV. CAN YOU TELL
10 ME WHAT THAT COLUMN IS DESIGNED TO REFLECT?

11 (WHEREUPON, THE REPORTER THEN READ THE
12 RECORD.)

13 A. THAT² IS THE VARIANCE FROM BUDGET, IN
14 THIS CASE NOT BEING A BUDGET. IT WOULD BE ACTUAL
15 SPENDING FOR ANY SPECIFIC EXPENSES CHARGED AGAINST
16 SPECIFIC MARKETING EXPENSES CHARGED AGAINST BRAND
17 CONTRIBUTION.

18 Q. IS THAT NUMBER THAT APPEARS IN THAT
19 COLUMN DESIGNED TO MATCH UP WITH THE NUMBER THAT APPEARS
20 ON EXHIBIT 19 FOR TOTAL ADVERTISING AND PROMOTION FOR
21 ANY PARTICULAR MONTH?

22 A. THERE AGAIN, BARRING THE ADJUSTMENTS
23 WE COULD HAVE MADE ON THIS REPORT, NORMAL PRACTICE WOULD
24 BE THEY WOULD MATCH.

25 Q. WHAT IS THE COLUMN VOLUME UNDER BRAND

1 CONTRIBUTION VARIANCES DESIGNED TO REPRESENT?

2 MR. PHILLIPS: CURRENT MONTH OR YEAR-
3 TO-DATE OR BOTH?

4 Q. I ASSUME THEY BOTH REPRESENT THE SAME
5 THING, ONE BEING THE FIGURES FOR THAT MONTH AND THE
6 OTHER YEAR-TO-DATE; IS THAT CORRECT, MR. WILSON?

7 A. THAT'S CORRECT.

8 Q. LET'S FOCUS ON THE YEAR-TO-DATE
9 FIGURES.

10 A. THAT REFLECTS THE IMPACT ON BRAND
11 CONTRIBUTION OF HAVING FAVORABLE VOLUMES OR HIGHER
12 VOLUMES THAN BUDGETED OR THE FACT THAT YOU HAVE NO
13 BUDGET SO IT'S ALL FAVORABLE.

14 Q. FOR AUGUST 1984 DOES THAT FIGURE TIE
15 INTO THE VARIABLE MARGIN FIGURE?

16 A. YES. THE REASON BEING THAT THAT'S
17 HOW WE CALCULATE THE VOLUME IMPACT. THE VOLUME
18 VARIANCE IS SUPPOSED TO REPRESENT THE DIFFERENCE BETWEEN
19 ACTUAL VOLUME, BUDGETED VOLUME TIMES THE BUDGETED
20 VARIABLE MARGIN RATE. SINCE THERE IS NO BUDGETED
21 VARIABLE MARGIN RATE WE CONSIDER IT ALL VOLUME.

22 Q. RIGHT. SO THAT JUST GENERALLY
23 SPEAKING, THE CONCEPT IS THAT ALL OTHER THINGS BEING
24 EQUAL THE HIGHER THE VOLUME FROM BUDGET THE HIGHER THE
25 VARIABLE MARGIN FROM BUDGET?

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1 A. YES.

2 Q. AND IS IT THE CASE, MR. WILSON, THAT
3 IF YOU NET OUT AUGUST 1984 THE VOLUME AND SPECIFIC ADV.
4 VARIANCES YOU WILL COME UP WITH THE FIGURES THAT APPEAR
5 AT THE TOP OF THE PAGE?

6 A. I HOPE SO.

7 Q. OKAY. THAT'S THE CASE EVERY MONTH AS
8 WELL AS YEAR-TO-DATE?

9 A. IT SHOULD, BARRING DIFFERENCES.

10 Q. IF YOU LOOK AT SEPTEMBER 1984 BRAND
11 CONTRIBUTION BEFORE RETURNS YOU WILL SEE FOR THE
12 GENERICS UNDER YEAR-TO-DATE, LAST YEAR COLUMN AT THE TOP
13 OF THE PAGE AN ENTRY OF 5.

14 CAN YOU TELL ME WHAT THAT REFERS TO?

15 A. I SURE CAN'T.

16 Q. THERE WERE NO GENERICS PRODUCED IN
17 1983; IS THAT CORRECT?

18 A. TO THE BEST OF MY KNOWLEDGE. IT COULD
19 BE A TYPO. I JUST DON'T KNOW.

20 Q. TURN TO JANUARY OF 1985 BRAND
21 CONTRIBUTION BEFORE RETURNS PAGE, MR. WILSON. THE
22 ACTUAL FIGURES AT THE TOP OF THE PAGE AND THE VARIANCE
23 FIGURES TIE IN WITH THE FIGURES THAT APPEAR ON THE OTHER
24 BRAND CONTRIBUTION REPORT FOR THAT MONTH; IS THAT
25 CORRECT?

1 A. YES, SIR.

2 Q. THE VARIANCE COLUMN ON EXHIBIT 23
3 BEING EQUIVALENT TO THE OPERATING VARIANCE FIGURE FOR
4 EXHIBIT 19?

5 A. YES, SIR.

6 Q. UNDER THE HEADING BRAND CONTRIBUTION
7 VARIANCES IN THE BOTTOM HALF OF THE PAGE YOU WILL SEE A
8 CATEGORY COST CHANGES YEAR-TO-DATE WHICH GIVES YOU A
9 UNFAVORABLE VARIANCE OF 42. CAN YOU TELL ME WHAT THAT
10 COST CHANGES COLUMN IS DESIGNED TO REFLECT?

11 A. IT'S TO REFLECT THE CHANGE IN YOUR
12 STANDARD COST, OPERATING STANDARD COST VERSUS YOUR
13 BUDGETED STANDARD COST.

14 Q. IT IS NOT DESIGNED TO REFLECT, I TAKE
15 IT, ANY DIFFERENCE BETWEEN OPERATING STANDARDS AND
16 ACTUAL COST; IS THAT CORRECT?

17 A. IN THE CONTEXT OF THIS REPORT, ACTUAL
18 COST IS THE OPERATING STANDARD.

19 Q. ARE THERE VARIANCES THAT ARE
20 CALCULATED BY BROWN & WILLIAMSON WHICH REFLECT THE
21 DIFFERENCE BETWEEN STANDARD COSTS AND ACTUAL COSTS?

22 ARE YOU FAMILIAR WITH REPORTS CALLED
23 V-1'S THAT ARE GENERATED BY BROWN & WILLIAMSON, MR.
24 WILSON?

25 A. I'M AWARE OF A V-1, YES.

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1 Q. DO YOU KNOW WHAT KIND OF INFORMATION
2 IS COLLECTED ON A V-1?

3 A. I'M NOT THAT FAMILIAR WITH IT, NO.

4 Q. CAN YOU TELL ME WHAT THE COLUMN PRICE
5 CHANGES UNDER BRAND CONTRIBUTION VARIANCES IS DESIGNED
6 TO REFLECT?

7 A. IT SHOULD REFLECT ANY CHANGE IN
8 ACTUAL SELLING PRICE VERSUS OUR BUDGETED SELLING PRICE.

9 Q. SO IN OTHER WORDS, GIVEN CONSTANT
10 SPENDING, CONSTANT VOLUME AND CONSTANT COST, IF YOU
11 RAISE THE PRICE FOR YOUR CIGARETTES FROM THE BUDGET,
12 THAT WILL CREATE A FAVORABLE VARIANCE IN BRAND
13 CONTRIBUTIONS; IS THAT CORRECT?

14 A. THAT'S CORRECT.

15 Q. IF YOU NET OUT THE VOLUME COST
16 CHANGES AND PRICE CHANGES FIGURES THAT APPEAR IN THE
17 JANUARY 1985 BRAND CONTRIBUTION BEFORE RETURNS SHEET AND
18 IN SUBSEQUENT SHEETS, WILL THAT EQUAL THE VARIABLE
19 MARGIN FIGURE THAT APPEARS ON THE OTHER BRAND
20 CONTRIBUTION REPORT?

21 A. IT NORMALLY SHOULD.

22 Q. ARE THERE CIRCUMSTANCES WHERE IT
23 DOESN'T?

24 A. I CAN'T RECALL ANY AT THIS POINT.

25 Q. IF YOU LOOK AT THE JANUARY 1985

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1 SPECIFIC ADV. FIGURE ON EXHIBIT 23, AND COMPARE THAT
2 WITH THE JANUARY 1985 TOTAL ADVERTISING AND PROMOTION
3 VARIANCE ON EXHIBIT 19, CAN YOU EXPLAIN TO ME THE
4 DISCREPANCY BETWEEN THOSE 2 FIGURES?

5 A. THE 743 VERSUS THE 736?

6 Q. SHOULDN'T IT BE 115 INSTEAD OF 743 ON
7 EXHIBIT 19?

8 A. YOU'RE RIGHT, I'M SORRY.

9 NO, SIR, I CAN'T.

10 Q. WAS THAT ATTRIBUTABLE TO A TEMPORARY
11 VARIANCE?

12 A. IT HAS TO BE ATTRIBUTABLE TO A
13 TEMPORARY VARIANCE, BUT IT COULD BE THAT -- WELL, I
14 DON'T KNOW THAT IT COULD BE, IT COULD BE SOMETHING ELSE
15 I GUESS.

16 GIVEN THAT YOUR BRAND CONTRIBUTION IS
17 THE SAME, IT HAS TO BE IN THE CLASSIFICATION OF YOUR
18 VARIANCES AND IT COULD VERY WELL HAVE BEEN THAT WE
19 CHANGED OUR TEMPORARY VARIANCES FOR THIS REPORT OR FOR
20 THIS REPORT FOR WHATEVER REASON.

21 Q. IF THESE TYPES OF DISCREPANCIES WERE
22 ATTRIBUTABLE TO TEMPORARY VARIANCES SHOULD THOSE
23 DISCREPANCIES BE ELIMINATED AT THE END OF THE YEAR IN
24 THE YEAR-TO-DATE FIGURES FOR DECEMBER OF 1985?

25 A. IN TERMS OF THIS PARTICULAR TYPE OF

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1 DISCREPANCY, YES, IF IT'S A TIMING DIFFERENCE.

2 Q. DID THE DECEMBER -- I'M SORRY, DID THE
3 1985 BRAND CONTRIBUTION BEFORE RETURNS REPORTS ELIMINATE
4 THE EXPLANATORY PROCEEDS THAT APPEARS IN THE 1984 BRAND
5 CONTRIBUTION BEFORE RETURNS REPORTS?

6 A. I DON'T UNDERSTAND THE QUESTION.

7 Q. IF YOU LOOK AT THE 1985 BRAND
8 CONTRIBUTION BEFORE RETURNS REPORTS YOU WILL SEE NO
9 SECTION IN THE MIDDLE OF EXPLANATORY PROCEEDS. THAT
10 SECTION, HOWEVER, DOES APPEAR IN THE 1984 BRAND
11 CONTRIBUTION BEFORE RETURNS REPORTS.

12 A. OKAY.

13 Q. MY QUESTION IS: HAS THAT SECTION BEEN
14 ELIMINATED IN THE 1985 REPORTS?

15 A. NO, SIR. IT'S JUST BEEN MOVED TO
16 ANOTHER PAGE.

17 Q. I DON'T THINK WE GOT THOSE OTHER
18 PAGES.

19 MR. PHILLIPS: YOU GOT THESE
20 DOCUMENTS.

21 MR. CONDREN: RIGHT, BUT WE DIDN'T GET
22 THE EXPLANATORY PROCEEDS.

23 MR. PHILLIPS: I THINK YOU DID BECAUSE
24 YOU GOT THE WHOLE DOCUMENT. IT'S ON ANOTHER PAGE.

25 MR. CONDREN: YOU'RE TALKING ABOUT THE

1 FINANCIAL REPORTS, IT WOULD APPEAR IN THE FINANCIAL
2 REPORTS?

3 MR. PHILLIPS: RIGHT. THAT'S WHAT
4 THESE COME FROM.

5 MR. CONDREN: OKAY.

6 MR. PHILLIPS: THIS IS -- NOTICE HOW
7 THEY HAVE PAGE 6 AT THE BOTTOM? SOMETIMES THEY ARE PAGE
8 5. I JUST WANT TO TELL YOU.

9 Q. YOU DID NOTICE THAT? I UNDERSTAND.

10 COULD YOU TELL ME, MR. WILSON, WHAT
11 WOULD CAUSE A DISCREPANCY BETWEEN THE VARIABLE MARGIN
12 FIGURE AS IT APPEARS ON EXHIBIT 19 FOR ANY PARTICULAR
13 MONTH AND THE NETTING OUT OF THE VOLUME COST CHANGES AND
14 PRICE CHANGES VARIANCES ON EXHIBIT 23 FOR THE SAME
15 MONTH?

16 MR. PHILLIPS: CAN I HAVE THAT ONE
17 AGAIN? I'M SORRY.

18 (WHEREUPON, THE REPORTER THEN READ THE
19 RECORD.)

20 A. I CAN'T RECALL ANY PARTICULAR
21 SITUATIONS. THE ONLY THING I CAN THINK OF WOULD BE A
22 SPECIAL PRICE ADJUSTMENT.

23 Q. WHAT IS A SPECIAL PRICE ADJUSTMENT?

24 A. I'M JUST SAYING DURING A PERIOD OF
25 PRICE INCREASE YOU COULD IN FACT -- WE COULD IN FACT

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1 MAKE SOME ADJUSTMENTS TO OUR REPORTING VERSUS WHAT THE
2 BOOKS WOULD REFLECT, AND LET IT CATCH ITSELF UP THE NEXT
3 MONTH.

4 Q. IN OTHER WORDS THAT PRICE ADJUSTMENT
5 WOULD BE REFLECTED ON EXHIBIT 23 BUT NOT ON EXHIBIT 19?

6 A. THAT'S POSSIBLE, YES.

7 MR. CONDREN: SHALL WE BREAK FOR
8 LUNCH?

9 MR. PHILLIPS: FINE.

10 (WHEREUPON, A LUNCH BREAK WAS THEN
11 TAKEN.)

12 Q. LET'S MARK FOR IDENTIFICATION WILSON
13 EXHIBITS 24-A, B AND C. 24-A IS A SUMMARY OF SALES
14 PROMOTION SPECIFIC EXPENSES FOR GENERICS MAY 1984
15 THROUGH DECEMBER 1985, DOCUMENT NUMBERS 91935 THROUGH
16 36, 31, 32, 27, 28, 23, 24, 19, 919, 20, 15, 16, 11, 12,
17 907, 08, 03, 04, 91899, 900, 91895, 96, 91891, 92,
18 44059, 4060, 91890, 91888, 440066, 67, 91885, 86,
19 183713, 714, 710, 711, 707, 708, 704, 705, 701, 702, 698
20 AND 699.

21 (WHEREUPON, WILSON DEPOSITION EXHIBITS
22 24-A WAS MARKED FOR IDENTIFICATION.)

23 Q. THANKFULLY EXHIBIT 20-B IS IN
24 CONNECTIVE NUMBER ORDER. IT IS SALES PROMOTION SPECIFIC
25 EXPENSES FOR GENERICS, SCHEDULE 5.20-A FROM MAY 1984

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1 THROUGH MARCH 1985, THE NUMBERS ARE 92086 THROUGH 92195.

2 (WHEREUPON, WILSON DEPOSITION EXHIBIT

3 24-B WAS MARKED FOR IDENTIFICATION.)

4 MR. CONDREN: AND EXHIBIT 24-C IS

5 SALES PROMOTION SPECIFIC EXPENSE ANALYSES, SCHEDULE M-5.

6 20-A, JUNE 1984, THROUGH MARCH 1985, DOCUMENT NUMBERS

7 92196 THROUGH 92233.

8 (WHEREUPON, WILSON DEPOSITION EXHIBIT

9 24-C WAS MARKED FOR IDENTIFICATION.)

10 Q. CAN YOU IDENTIFY THOSE DOCUMENTS FOR

11 ME, MR. WILSON?

12 LET'S JUST FOCUS ON 24-A FIRST OF ALL.

13 A. 24-A?

14 Q. YES.

15 A. IT'S A BROWN & WILLIAMSON TOBACCO

16 MONTHLY BUDGET REPORT SALE PROMOTION SPECIFIC RELEVANT

17 TO GENERICS, AT LEAST THE FIRST PAGE IS. ALL THE PAGES

18 ARE RELEVANT TO MONTHLY GENERIC SUMMARIES.

19 Q. IS THE APRIL 1985 REPORT A

20 CONTINUATION OF THE MARCH 1985 REPORT?

21 A. YES, SIR, IN DIFFERENT FORMAT.

22 Q. DO YOU KNOW WHO PREPARED THESE

23 DOCUMENTS, MR. WILSON?

24 A. IT'S A SYSTEM GENERATED REPORT COMING

25 OUT OF THE GENERAL ACCOUNTING GROUP.

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1 Q. WOULD MR. ECKMANN BE ABLE TO EXPLAIN
2 TO ME WHAT EACH OF THESE LINE ITEMS ARE DESIGNED TO
3 REFLECT IN THESE REPORTS?

4 A. I CAN'T SPEAK FOR MR. ECKMANN AS TO
5 WHETHER HE WOULD HAVE A DEFINITION FOR EACH LINE ITEM,
6 BUT HE WOULD HAVE IT AS ACCESS EMPLOYEES WHO COULD
7 DEFINE^s EACH LINE ITEM.

8 Q. DO YOU HAVE AN UNDERSTANDING AS TO
9 WHAT EACH LINE ITEM REPRESENTS, MR. WILSON?

10 A. VERY GENERAL BUT NOT DETAILED.

11 Q. IF YOU LOOK AT THE AUGUST 1984 PAGE 2
12 OF THIS REPORT -- DO YOU HAVE THAT, MR. WILSON, PAGE 2,
13 AUGUST 1984?

14 A. YES, SIR, I DO.

15 Q. YOU WILL NOTICE A CREDIT FOR \$696,642
16 UNDER TOTAL OTHER. DO YOU KNOW WHAT THAT CREDIT WAS
17 FOR, MR. WILSON?

18 A. NO, SIR, I DON'T, NOT RIGHT OFFHAND.

19 Q. IF YOU WILL LOOK AT NOVEMBER 1983,
20 PAGE 2.

21 A. YES, SIR.

22 Q. CAN YOU TELL ME WHAT THE CREDITS ARE
23 FOR THAT MONTH UNDER TOTAL PROMOTION AGENCY, TOTAL
24 PACKAGE DESIGN AND TOTAL CYLINDER EXPENSE?

25 A. THIS IS SOME OF THE NEW PRODUCT

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1 DEVELOPMENT TYPE COSTS THAT WAS ORIGINALLY AND
2 INAPPROPRIATELY CHARGED TO GENERIC SALES PROMOTION
3 SPECIFIC, AND THE CREDIT IS REMOVING IT OUT OF SALES
4 PROMOTION SPECIFIC AND CHARGING IT TO NEW PRODUCT
5 DEVELOPMENT.

6 Q. AFTER THE CREDIT REMOVING THESE
7 EXPENSES FROM SALES PROMOTION SPECIFIC WERE THESE
8 EXPENSES RECORDED IN THE NEW PRODUCT DEVELOPMENT REPORTS
9 WE LOOKED AT PREVIOUSLY?

10 A. I BELIEVE SO.

11 Q. DO YOU KNOW WHO DECIDED TO REMOVE
12 THOSE EXPENSES FROM SALES PROMOTION SPECIFIC AND PUT
13 THEM INTO NEW PRODUCT DEVELOPMENT?

14 A. IT WAS AGREED UPON BY GENE TUCKER AND
15 MYSELF AND TONY BACON.

16 Q. IF YOU LOOK AT DECEMBER 1984, MR.
17 WILSON, CAN YOU TELL ME WHAT KIND OF EXPENSES GENERALLY
18 ARE CONTAINED WITHIN THE CATEGORY OF TOTAL FIELD
19 PROMOTION?

20 A. NOT RIGHT OFFHAND I CAN'T.

21 Q. YOU HAVE NO GENERAL UNDERSTANDING AT
22 ALL WHAT KINDS OF EXPENSES ARE INCORPORATED THERE?

23 A. NO, SIR, NOT THAT I CAN ELABORATE ON.

24 Q. HOW ABOUT THE LINE TOTAL REQ.
25 MATERIALS ON THAT PAGE?

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1 A. REQUISITIONAL MATERIALS? BASICALLY
2 THAT'S MATERIALS USED BY THE FIELD SALES FORCE TO HELP
3 PROMOTE THE PRODUCTS. IN THIS CASE IT WOULD BE SPECIFIC
4 TO GENERICS.

5 Q. WHAT KINDS OF MATERIALS WOULD THOSE
6 BE?

7 A. I WOULD SAY POSSIBLY JUST SOME FORM
8 OF DISPLAY.

9 Q. ARE THOSE GIVEN TO CUSTOMERS OR WERE
10 THOSE GIVEN TO CUSTOMERS IN 1984?

11 A. I DON'T KNOW.

12 Q. DO YOU KNOW WHAT KINDS OF EXPENSES
13 ARE INCLUDED IN THE LINE ITEM TOTAL REBATES ON THAT
14 PAGE?

15 A. THEY ARE DIRECT REBATES PAID TO THE
16 DISTRIBUTORS.

17 Q. WHAT ARE THOSE PAYMENTS BASED ON?

18 A. IN 1984 THERE WERE VARIOUS DIFFERENT
19 REBATE PROGRAMS. BASICALLY IT'S BASED ON VOLUMES.

20 Q. VOLUME OF PURCHASES BY THE CUSTOMER?

21 A. YES, SIR.

22 Q. CAN YOU TELL ME WHAT KINDS OF EXPENSES
23 ARE INCLUDED IN THE LINE ITEM TOTAL ON/IN PACKS ON THAT
24 PAGE?

25 A. I BELIEVE FOR THE MOST PART THAT COULD

1 BE STICKERING.

2 Q. WHAT IS STICKERING, MR. WILSON?

3 A. A TYPE OF PROMOTION WHERE YOU WOULD
4 APPLY A STICKER THAT WOULD ALLOW THE CUSTOMER TO BUY THE
5 PRODUCT AT A LESSER PRICE THAN WHAT THE RETAIL VALUE
6 IS. IT'S CALLED A DOLLAR-OFF STICKER OR SOMETHING OF
7 THAT NATURE.

8 Q. IF YOU LOOK AT THE JANUARY 1985
9 REPORT, MR. WILSON, CAN YOU TELL ME WHAT THE CREDIT FOR
10 \$17,780 WAS FOR TOTAL FIELD PROMOTION?

11 A. NO, SIR, I COULD NOT.

12 Q. ARE THE SALES PROMOTION SPECIFIC
13 REPORTS THAT CONSTITUTE 5 -- THAT CONSTITUTE EXHIBIT 24-
14 A DESIGNED TO REFLECT REBATE EXPENSES THAT HAVE BEEN
15 PAID TO CUSTOMERS ALREADY?

16 A. THEY ARE DESIGNED TO REFLECT OUR
17 ACTUAL REBATE EXPENDITURES BUT, FOR EXAMPLE, JANUARY
18 WOULD BE BASED UPON AN ACCRUAL RATE. FEBRUARY WOULD BE
19 BASED UPON AN ACCRUAL RATE, MARCH WOULD BE BASED ON AN
20 ACCRUAL RATE. ONCE THE PAYMENT IS MADE ON A QUARTERLY
21 BASIS WE WOULD THEN MAYBE ADJUST THAT ACCRUAL TO REFLECT
22 WHAT THE ACTUAL PAYMENT WOULD BE.

23 Q. WOULD THOSE ADJUSTMENTS BE MADE IN,
24 FOR EXAMPLE, THE MARCH 1985 REPORTS?

25 A. I BELIEVE IT PROBABLY WOULD BE MADE

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1 MORE LIKE APRIL.

2 Q. ARE THERE ADJUSTMENTS MADE AFTER THE
3 END OF THE YEAR TO REFLECT PRIOR YEAR ADJUSTMENTS
4 BETWEEN ACCRUALS AND ACTUAL PAYMENTS?

5 A. I DON'T KNOW THE ACTUAL MECHANICS OF
6 IT, BUT BECAUSE THE BOOKS STAY OPEN LONGER AT THE END OF
7 THE YEAR I'M ASSUMING WE ALREADY KNOW WHAT THE ACTUAL
8 PAYMENT IS BEFORE WE CLOSE THE BOOKS IN DECEMBER SO
9 DECEMBER SHOULD REFLECT ACTUAL PAYMENTS.

10 Q. FOR THAT ENTIRE YEAR?

11 A. YES, BUT THERE IS A POSSIBILITY WE
12 COULD HAVE A JANUARY ADJUSTMENT.

13 Q. DO YOU KNOW WHETHER THERE WERE ANY
14 JANUARY ADJUSTMENTS MADE IN 1986 FOR SALES PROMOTION
15 SPECIFIC EXPENSES PERTAINING TO GENERICS?

16 A. NO, SIR, I CAN'T. I DON'T RECALL ANY.

17 Q. IF YOU LOOK AT THE JULY 31ST, 1985
18 PAGE, MR. WILSON?

19 A. I'M SORRY, JULY?

20 Q. JULY 1985, PAGE ONE, YOU WILL SEE A
21 CREDIT OF \$126,504 FOR MATERIALS UNDER REQUISITIONABLE
22 MATERIALS. CAN YOU TELL ME WHAT THAT CREDIT WAS FOR?

23 A. NO, SIR, I CAN'T.

24 Q. DO YOU KNOW WHETHER THE SALES
25 PROMOTION SPECIFIC EXPENSES FOR GENERICS THAT ARE

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1 REFLECTED IN THESE REPORTS CORRESPOND TO ANY LINE ITEM
2 OR ITEMS IN THE BRAND CONTRIBUTION SHEETS THAT ARE
3 EXHIBIT 19?

4 MR. PHILLIPS: OBJECTION TO FORM.

5 Q. YOU CAN TAKE A LOOK AT THE BRAND
6 CONTRIBUTION SHEETS AND COMPARE IF YOU WISH.

7 A. I CAN'T SEEM TO MATCH ANY OF THE
8 NUMBERS UP IDENTICALLY OR MATCH THEM UP EXACTLY WHAT
9 THEY ARE ON EACH RESPECTIVE SHEET.

10 Q. I'M NOT ASKING YOU JUST TO MATCH THE
11 NUMBERS UP. I'M ASKING YOU: IS IT YOUR UNDERSTANDING
12 THAT THE EXPENSES PURPORTED IN THE SALES PROMOTION
13 SPECIFIC MONTHLY BUDGET REPORTS ARE DESIGNED TO BE
14 REFLECTED IN THE BRAND CONTRIBUTION SHEETS?

15 A. YES. THEY ARE DESIGNED, IF THIS IS ALL
16 INCLUSIVE OF THE SALES PROMOTION SPECIFIC GENERICS, THE
17 TOTAL OF THESE SHEETS WOULD BE DESIGNED TO HAVE THE SAME
18 NUMBER IN THE BRAND CONTRIBUTION.

19 Q. WHAT LINE ITEM NUMBER ON THE BRAND
20 CONTRIBUTION SHEET WOULD THOSE EXPENSES GO TO?

21 A. IT WOULD BE 2 LINE ITEMS, SALES
22 PROMOTION BRAND SPECIFIC AND PROMOTION IN MERCHANDISING
23 MATERIALS.

24 Q. IF YOU WILL LOOK AT EXHIBIT 24-B, MR.
25 WILSON, CAN YOU IDENTIFY THAT FOR ME, PLEASE?

1 A. IT'S A BROWN & WILLIAMSON TOBACCO
2 MONTHLY BUDGET REPORTS SALES PROMOTION OF SPECIFIC
3 GENERICS, IT REFERENCES TRADE DEVELOPMENT, FIELD
4 PROMOTIONS AND BRAND PROMOTIONS, BUDGET MATHS.

5 Q. WAS THE RESPONSIBILITY FOR SEEING THAT
6 THESE DOCUMENTS WERE PREPARED ACCURATELY ALSO IN THE
7 GENERAL ACCOUNTING DEPARTMENT IN 1984 AND 1985?

8 A. THAT'S CORRECT.

9 Q. THERE ARE VARIOUS REFERENCES THERE
10 THROUGHOUT THIS REPORT, MR. WILSON, TO EVENTS A, B, C
11 AND D, DO YOU HAVE AN UNDERSTANDING AS TO WHAT THOSE
12 REFERENCES ARE?

13 A. I DON'T HAVE AN UNDERSTANDING AS TO
14 WHAT EACH EVENT PURPORTS TO BE. THE MECHANISMS SET UP
15 -- IS SET UP IN A WAY IN WHICH TO TRACK VARIOUS
16 PROMOTIONS TO SERVICE THE VARIOUS DEPARTMENT MANAGERS
17 AND WHEN THEY RECEIVE THIS REPORT THEY ARE ABLE TO
18 DETERMINE HOW MUCH MONEY IS BEING SPENT AGAINST A
19 PARTICULAR ACTIVITY.

20 Q. BUT YOU DON'T KNOW SPECIFICALLY WHAT
21 THE REFERENCES ARE TO THESE EVENTS THROUGHOUT THESE
22 REPORTS?

23 A. NO, SIR, I DON'T.

24 Q. IF YOU WILL LOOK AT EXHIBIT 24-C, MR.
25 WILSON, CAN YOU IDENTIFY THAT FOR ME, PLEASE?

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1 A. THIS IS A BROWN & WILLIAMSON TOBACCO
2 SALES PROMOTION SPECIFIC EXPENSE ANALYSIS FOR GENERICS.
3 IT'S WHAT WE REFER TO AS A DETAILED REPORT.

4 Q. DO YOU KNOW WHO PREPARED THESE REPORTS
5 OR WHO HAD THE RESPONSIBILITY FOR SEEING THAT THEY WERE
6 PREPARED ACCURATELY?

7 A. THE SYSTEMS GENERATED REPORT THAT'S
8 EMANATING OUT OF THE GENERAL ACCOUNTING AREA ALONG WITH
9 THE BUDGET MATHS.

10 Q. SHOULD THE FIGURES FOR ANY PARTICULAR
11 MONTH FOR ANY PARTICULAR EXPENSE MATCH UP AMONG EXHIBITS
12 24-A, B AND C?

13 A. YES, SIR.

14 Q. IF YOU WILL LOOK AT PAGE 4 OF AUGUST
15 '84 FOR EXHIBIT 24-C, MR. WILSON, YOU WILL SEE A
16 REFERENCE, "MOVE JULY GENERIC REBATE ACCRUAL TO NE."

17 A. AUGUST '84?

18 Q. YES. PAGE NUMBER 92202.

19 CAN YOU TELL ME WHAT THAT'S A
20 REFERENCE TO, MR. WILSON?

21 A. YES, SIR. IF YOU GO ACROSS THE PAGE
22 AND YOU WILL SEE AN ENTRY NUMBER 1143.

23 Q. YES, SIR.

24 A. IF YOU WOULD GO BACK TO PAGE 2, AND
25 YOU LOOK UNDER YOUR REBATES AND YOUR ENTRY 1143 IS ALSO

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1 NOTED UP THERE AND IN EFFECT WHAT THIS TRANSACTION IS
2 DOING IS TAKING THIS INAPPROPRIATE BOOKING AND OTHER
3 CLASSIFICATION AND SPLITTING IT OUT BETWEEN PROMOTIONAL
4 ALLOWANCES, PROMPT ENROLLMENT AND THE REGULAR VOLUME
5 REBATES. ALL IT'S DOING IS REDISTRIBUTING SOMETHING
6 DISCHARGED TO ANOTHER CATEGORY.

7 Q. I SEE. THANK YOU.

8 IF YOU WILL LOOK AT PAGE 4 OF THE
9 JANUARY 1985 PORTION OF EXHIBIT 24-C, MR. WILSON, PAGE
10 92223, YOU WILL SEE AN ENTRY UNDER MATERIALS-ON/IN PACKS
11 FOR A CREDIT OF APPROXIMATELY \$243,000.

12 CAN YOU TELL ME WHAT THAT ENTRY IS
13 DESIGNED TO REFLECT?

14 A. NO, SIR. I CAN'T.

15 Q. LET'S MOVE ON TO WILSON EXHIBITS 25-A,
16 B, C AND D. EXHIBIT 25-A IS MONTHLY BUDGET REPORTS FOR
17 SALES PROMOTION SPECIFIC BRANDED GENERIC, MAY 1984
18 THROUGH MARCH 1985, PAGES 91937, 91933, 34, 29, 30, 25,
19 WHAT APPEARS TO BE 28, 21, 22, 17, 18, 44013, 14,
20 91909, 910, 905, 06, 01, 02, 91897 AND 98.

21 25-B IS SALES PROMOTION SPECIFIC
22 REPORTS FOR BRANDED GENERICS, MAY 1984 THROUGH MARCH
23 1985, 91974 THROUGH 92083.

24 25-C IS SALES PROMOTION SPECIFIC
25 EXPENSE ANALYSES FOR BRANDED GENERICS, JULY 1984,

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1 THROUGH MARCH 1985, DOCUMENT NUMBERS 91966 THROUGH 73.
2 AND EXHIBIT 25-D IS SALES PROMOTION
3 SPECIFIC SUMMARIES FOR PRIVATE LABEL GENERICS, 44053,
4 44061 TO 62, 44068 TO 69, 91884, 91887, 91819, 183700,
5 183703, 706, 183709 AND 183712.

6 (WHEREUPON, WILSON DEPOSITION
7 EXHIBITS 25-A, B, C AND D WERE MARKED FOR
8 IDENTIFICATION.)

9 Q. CAN YOU IDENTIFY EXHIBIT 25-A FOR ME
10 FIRST, MR. WILSON?

11 A. YES, SIR. BROWN & WILLIAMSON TOBACCO
12 MONTHLY BUDGET REPORT SALES PROMOTION SPECIFIC BRANDED
13 GENERIC SUMMARY MAY OF 1984. I'M ASSUMING THROUGH MARCH
14 OF '85.

15 Q. WAS THE CREATION OF THIS DOCUMENT ALSO
16 THE RESPONSIBILITY OF THE GENERAL ACCOUNTING DEPARTMENT?

17 A. YES, SIR.

18 Q. CAN YOU TELL ME WHAT YOUR
19 UNDERSTANDING IS OF THE MEANING OF THE TERM BRANDED
20 GENERIC AS IT'S USED IN THESE REPORTS?

21 A. MY UNDERSTANDING IS TO CAPTURE COSTS
22 RELATIVE TO GENERIC RELATED COSTS OTHER THAN THE NORMAL
23 BLACK AND WHITE OR, PUT ANOTHER WAY, PRIVATE LABEL TYPE
24 GENERIC ACTIVITIES.

25 Q. IT'S YOUR UNDERSTANDING THIS REPORT

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824 24400

1 IS DESIGNED TO REFLECT PRIVATE LABEL GENERIC SALES
2 PROMOTION SPECIFIC EXPENSES?

3 A. I BELIEVE SO.

4 Q. IF YOU WILL LOOK, MR. WILSON, AT THE
5 NOVEMBER 1984 REPORT --

6 A. YES, SIR.

7 Q. -- YOU WILL SEE VARIOUS CREDITS
8 ENTERED TQ TALLING \$57,952?

9 A. YES, SIR.

10 Q. CAN YOU TELL ME WHY THOSE CREDITS WERE
11 ENTERED AT THAT MONTH?

12 A. I THINK THIS IS PART OF THE
13 CORRECTIONS OF THE INAPPROPRIATE CHARGES TO SALES
14 PROMOTION SPECIFIC WHERE WE TRANSFERRED THE COSTS OUT
15 OF THE SALES PROMOTION SPECIFIC INTO NEW PRODUCT
16 DEVELOPMENT.

17 Q. IS IT YOUR UNDERSTANDING THESE
18 EXPENSES WERE INCORPORATED INTO THE NEW PRODUCT
19 DEVELOPMENT REPORTS FOR BRANDED GENERICS SUBSEQUENT TO
20 THE CREDITS BEING ENTERED ON THESE REPORTS.

21 MR. PHILLIPS: PERHAPS SIMULTANEOUS.

22 Q. OR PERHAPS SIMULTANEOUS?

23 A. YES, SIR. THE ONLY RESERVATION I HAVE
24 WOULD BE THE REQUISITIONAL MATERIALS. THAT DOESN'T --

25 Q. THE ENTRY FOR \$1,885?

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1 A. I DON'T HAVE THE RECALL ON THAT
2 PARTICULAR TRANSACTION.

3 Q. BUT YOU BELIEVE THE OTHERS THAT ARE
4 REFLECTED IN THE NOVEMBER 1984 REPORT WERE TRANSFERRED
5 TO NEW PRODUCT DEVELOPMENT?

6 A. YES, SIR.

7 Q. CAN YOU IDENTIFY WILSON EXHIBIT 25-B,
8 MR. WILSON?

9 A. BROWN & WILLIAMSON MONTHLY BUDGET
10 REPORT SALES PROMOTION SPECIFIC BRANDED GENERICS. IT IS
11 A TRADE DEVELOPMENT, FIELD PROMOTION, BRAND PROMOTION,
12 SUMMARY.

13 Q. WAS IT ALSO THE RESPONSIBILITY OF THE
14 GENERAL ACCOUNTING DEPARTMENT TO OVERSEE THE CREATION OF
15 THESE DOCUMENTS, MR. WILSON?

16 A. YES, SIR.

17 Q. DO THESE DOCUMENTS REPRESENT THE MORE
18 DETAILED BACK UP TO WILSON EXHIBIT 25-A? I BELIEVE IF
19 YOU COMPARE THE NOVEMBER 1984 CREDITS THAT MAY HELP YOU.

20 A. I HAVE TO GO ALL THE WAY BACK TO
21 MARCH OF '85 SINCE THAT'S THE EASIEST ONE.

22 Q. WHATEVER, WHATEVER YOU CHOOSE.

23 A. AND YOUR QUESTION WAS DOES EXHIBIT 25-
24 B REPRESENT MORE DETAILED INFORMATION TO SUPPORT THE
25 EXHIBIT 25-A?

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824 24402

1 Q. YES.

2 A. THAT'S CORRECT.

3 Q. CAN YOU IDENTIFY WILSON EXHIBIT 25-C
4 FOR ME?

5 A. YES, SIR. BROWN & WILLIAMSON TOBACCO
6 CORPORATION SALES PROMOTION SPECIFIC EXPENSE ANALYSIS
7 BRANDED^S GENERICS.

8 Q. WAS IT ALSO THE RESPONSIBILITY OF THE
9 GENERAL ACCOUNTING DEPARTMENT TO OVERSEE THE PREPARATION
10 OF THESE DOCUMENTS?

11 A. YES, SIR.

12 Q. DO THESE DOCUMENTS ALSO REPRESENT A
13 SPECIFIC BREAKDOWN OF² EXPENSES REFLECTED IN EXHIBIT 25-
14 A?

15 A. YES, SIR.

16 Q. FOR CERTAIN MONTHS ONLY? WE ONLY
17 HAVE CERTAIN MONTHS OF EXHIBITS 25-C?

18 A. RIGHT, EXACTLY RIGHT.

19 Q. CAN YOU IDENTIFY WILSON EXHIBIT 25-D
20 FOR ME, PLEASE?

21 A. IT'S BROWN & WILLIAMSON TOBACCO
22 CORPORATION MONTHLY BUDGET REPORT, SALES PROMOTION
23 SPECIFIC SUMMARIES, PRIVATE LABEL GENERICS.

24 Q. WAS IT ALSO THE RESPONSIBILITY OF THE
25 GENERAL ACCOUNTING DEPARTMENT TO OVERSEE THE PREPARATION

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1 OF THESE DOCUMENTS?

2 A. YES, SIR.

3 Q. IS WILSON EXHIBIT 25-D A CONTINUATION
4 OF WILSON EXHIBIT 25-A?

5 A. YES, SIR.

6 Q. ARE THE EXPENSES REFLECTED IN WILSON
7 25-D INCORPORATED INTO THE BRAND CONTRIBUTION SHEETS
8 THAT CONSTITUTE EXHIBIT 19?

9 A. I'M NOT SURE.

10 Q. DO YOU KNOW WHETHER THE SUM OF THE
11 PRIVATE LABEL AND/OR BRANDED GENERICS SALES PROMOTION
12 SPECIFIC EXPENSES AND THE SALES PROMOTION SPECIFIC
13 EXPENSES FOR GENERICS WILL BE REFLECTED ON THE BRAND
14 CONTRIBUTION SHEETS?

15 A. I'M NOT SURE WITHOUT TESTING IT.

16 Q. DO YOU HAVE AN UNDERSTANDING AS TO
17 WHETHER IT SHOULD BE?

18 MR. PHILLIPS: YOU MEAN WHETHER THE
19 BRAND CONTRIBUTION SHEET WAS DESIGNED TO INCORPORATE
20 THEM?

21 MR. CONDREN: YES.

22 A. I'M OF THE OPINION IT SHOULD NOT BE.

23 Q. THE PRIVATE LABEL GENERIC SPECIFIC
24 EXPENSES SHOULD NOT BE REFLECTED ON THE BRAND
25 CONTRIBUTION SHEETS?

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824 24404

1 A. YES, SIR.

2 Q. WHY IS THAT?

3 A. TO CLARIFY THAT, UNTIL SUCH TIME WE
4 STARTED TO SELL PRIVATE LABEL, WHICH WOULD BE -- MAJOR
5 BRAND IS THE ONLY ONE I'M AWARE THAT WE ARE IN -- UNTIL
6 WE STARTED RECOGNIZING SALES UNITS WE SHOULD NOT BE
7 RECORDING THE MARKETING EXPENSE AGAINST BRAND
8 CONTRIBUTION. AT THE TIME IN WHICH WE START TO SELL
9 MAJOR BRAND UNITS, WE WOULD START TO RECORD SALES
10 PROMOTION SPECIFIC AGAINST IT.

11 Q. ON THE BRAND CONTRIBUTION SHEETS?

12 A. YES.

13 Q. WOULD YOU RECORD SALES PROMOTION
14 SPECIFIC EXPENSES THAT HAD BEEN INCURRED PRIOR TO THE
15 CIGARETTES BEING SOLD?

16 A. OKAY. I'M GOING TO GO BACK A SECOND.
17 I DON'T KNOW FOR A FACT HOW IT WAS HANDLED, OKAY, SO THE
18 ONLY WAY WE COULD FIND THAT OUT IS SIT THERE AND TEST
19 THE NUMBERS, SO I THINK THAT'S PROBABLY THE MOST
20 IMPORTANT FACT RIGHT NOW IS WHAT THESE REPORTS REFLECT,
21 AND I DON'T KNOW.

22 Q. ALL RIGHT. LET'S LOOK AT THE DECEMBER
23 1985 BRAND CONTRIBUTION TOTALS.

24 A. DECEMBER 1985.

25 Q. FOR TOTAL ADVERTISING AND PROMOTION.

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1 A. OKAY.

2 Q. AND LET'S LOOK AT THE TOTAL SPECIFIC
3 EXPENSES FOR PRIVATE LABELS AND GENERICS FOR THE YEAR
4 DECEMBER 1985.

5 A. OKAY.

6 Q. ALL RIGHT.

7 A. IN TESTING THE -- YOU HAVEN'T ASKED
8 THE QUESTION YET, I GUESS.

9 Q. BASED ON YOUR CALCULATIONS, MR.
10 WILSON, DO YOU BELIEVE THAT THE YEAR-TO-DATE BRAND
11 CONTRIBUTION FIGURES FOR GENERICS DECEMBER 1985 INCLUDE
12 SALES PROMOTION SPECIFIC EXPENSES FOR PRIVATE LABEL
13 GENERICS AND GENERICS?

14 A. BASED ON MY TEST CALCULATION, YES,
15 THEY DO INCLUDE THEM.

16 Q. LET'S MARK FOR IDENTIFICATION WILSON
17 EXHIBIT 26 WHICH IS A ONE-PAGE MEMORANDUM TO T.W. WILSON
18 FROM B.E. BACON DATED APRIL 23RD, 1985.

19 (WHEREUPON, WILSON DEPOSITION EXHIBIT
20 26 WAS MARKED FOR IDENTIFICATION.)

21 Q. THE DOCUMENT NUMBER IS 172232.

22 CAN YOU IDENTIFY THIS DOCUMENT, MR.
23 WILSON?

24 A. YES, SIR. IT'S A MEMORANDUM ADDRESSED
25 TO ME FROM TONY BACON ON APRIL 23RD, 1985. IT'S

1 GENERIC FIRST QUARTER REBATES.

2 Q. DO YOU KNOW WHOSE HANDWRITING APPEARS
3 AT THE BOTTOM OF THE PAGE?

4 A. THAT'S MY HANDWRITING.

5 Q. WHO IS FRANCES, MR. WILSON?

6 A. FRANCES HUNTER WHO IS -- AT THAT TIME
7 WAS THE MARKETING -- MARKETING COUNSULTANT IN THE
8 GENERAL ACCOUNTING DEPARTMENT.

9 Q. LET'S NOW MARK AS EXHIBIT 27 A
10 MEMORANDUM WITH ATTACHMENTS FROM T.W. WILSON TO B.E.
11 BACON DATED APRIL 24TH, 1985, REGARDING GENERIC FIRST
12 QUARTER REBATES. DOCUMENT NUMBERS ARE 187892 THROUGH
13 187897.

14 (WHEREUPON, WILSON DEPOSITION EXHIBIT
15 27 WAS MARKED FOR IDENTIFICATION.)

16 A. YES, SIR.

17 Q. CAN YOU IDENTIFY ALL OR ANY PART OF
18 THIS DOCUMENT FOR ME, MR. WILSON?

19 A. IT'S A MEMORANDUM ADDRESSED TO MR.
20 BACON REGARDING THE GENERIC FIRST QUARTER REBATES IN
21 RESPONSE TO A REQUEST HE MADE TO US ON OCTOBER -- APRIL
22 THE 23RD.

23 Q. AND THAT REQUEST HE MADE IS REFLECTED
24 IN WILSON EXHIBIT 26?

25 A. OH, YES, SIR.

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824 24407

1 Q. IF YOU TURN TO THE SECOND PAGE OF THIS
2 EXHIBIT, MR. WILSON, IF YOU LOOK DOWN IN THE LOWER
3 LEFT-HAND CORNER, WHO IS M.K.H.?

4 A. MARY HESS, SHE'S MY SECRETARY, OR WAS
5 MY SECRETARY.

6 Q. AT THE TIME YOU PREPARED THIS
7 ATTACHMENT?

8 A. YES.

9 Q. DO THE NUMBERS THAT APPEAR IN THE
10 DOLLAR COLUMN UNDER FIRST QUARTER ACTUAL REFLECT ACTUAL
11 REBATE PAYMENTS THAT HAD BEEN MADE IN THE FIRST QUARTER
12 OF 1985 BY BROWN & WILLIAMSON?

13 A. EXCLUDING VENDING AND PRIVATE LABEL
14 BUSINESS, YES, SIR.

15 Q. RIGHT. IF YOU TURN TO THE NEXT PAGE,
16 MR. WILSON, DO THE NUMBERS THAT APPEAR FOR THE VARIOUS
17 REBATES UNDER THE GENERAL HEADING ACCRUALS REFLECT
18 EXPENSES AS THEY WERE REPORTED IN THE SALES PROMOTION
19 SPECIFIC REPORTS FOR JANUARY, FEBRUARY AND MARCH OF
20 1985?

21 A. I BELIEVE THAT'S CORRECT.

22 Q. AND THE ACTUAL COLUMN REPRESENTS
23 ACTUAL PAYMENTS THAT HAD BEEN MADE FOR THE FIRST QUARTER
24 AS OPPOSED TO THOSE THAT WERE ACCRUED IN THE REPORTS?

25 A. YES, SIR.

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B24 24408

1 Q. AND THE DIFFERENCE BETWEEN THOSE 2 FOR
2 THE 3 MONTHS FOR ALL THE REBATES WAS \$44,232?

3 A. YES, SIR.

4 Q. WAS THERE AN ADJUSTMENT MADE
5 SUBSEQUENT TO THE MARCH 1985 REPORT TO REFLECT THE FACT
6 THAT ACTUAL PAYMENTS EXCEEDED ACCRUALS BY \$44,000?

7 MR. PHILLIPS: WHICH MARCH 1985
8 REPORT?

9 Q. THE SPECIFIC MONTHLY BUDGET REPORT,
10 SALES PROMOTION SPECIFIC MONTHLY BUDGET REPORTS.

11 A. I DON'T KNOW IF A SPECIFIC AMOUNT FOR
12 44,232 WAS BOOKED IN THE MONTH OF APRIL.

13 Q. WOULD SOME ENTRY HAVE REFLECTED THAT
14 DIFFERENCE IN A SALES PROMOTION SPECIFIC MONTHLY BUDGET
15 REPORT SUBSEQUENT TO MARCH 1985?

16 A. SUBSEQUENT MEANING AFTERWARD; RIGHT?

17 Q. YES.

18 A. I WOULD BELIEVE SO.

19 Q. IF YOU LOOK AT THE VOLUME COLUMNS THAT
20 APPEAR AT THE BOTTOM OF THE PAGE, CAN YOU TELL ME WHAT
21 THE REFERENCE IS TO AG-90?

22 A. IT'S A SALES REPORT GENERATED BY THE
23 GENERAL ACCOUNTING GROUP.

24 Q. AND IT'S DESIGNED TO REFLECT VOLUMES
25 FOR REGULAR COMMERCIAL BUSINESS AS OPPOSED TO MILITARY

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824 24409

1 VENDING AND PRIVATE LABEL?

2 A. IT INCLUDES THE VOLUME REPORTED ON THE
3 AG-90, INCLUDES ALL TOTAL GENERIC SALES.

4 Q. I SEE. I UNDERSTAND. AND MILITARY IS
5 SUBTRACTED FROM THAT TO GIVE YOU THE REBATE VOLUMES?

6 A. THAT'S CORRECT.

7 S Q. TURN TO THE NEXT PAGE OF THIS
8 EXHIBIT, PLEASE, MR. WILSON. CAN YOU TELL ME WHAT THE
9 NUMBERS IN THE COLUMN HEADED CATEGORY REFER TO?

10 A. THEY ARE CASE PURCHASES, QUARTERLY
11 CASE PURCHASES.

12 Q. BY THE WAY, MR. WILSON, DID YOU
13 PREPARE THE THIRD PAGE OF THIS EXHIBIT? YES, THE PAGE
14 WE WERE JUST DISCUSSING.

15 A. I GOT NUMBER 187894.

16 Q. YES.

17 A. YES, SIR.

18 Q. DID YOU PREPARE THE NEXT PAGE,
19 187895?

20 A. NO, SIR.

21 Q. DO YOU KNOW WHO PREPARED THAT?

22 A. NOT RIGHT OFFHAND.

23 Q. WAS THERE SOMEONE WHO WORKED FOR YOU?

24 A. IT COULD HAVE BEEN.

25 Q. DO YOU RECALL THAT THIS WAS AN

1 ATTACHMENT TO THE MEMORANDUM YOU SENT TO MR. BACON ON
2 APRIL 24TH, 1985?

3 A. YES, SIR.

4 Q. IT WAS AN ATTACHMENT?

5 A. YES, SIR.

6 Q. CAN YOU TELL ME WHAT THE NUMBERS UNDER
7 THE COLUMN REBATE ON PAGE 187895 ARE DESIGNED TO
8 REFLECT?

9 A. IT'S THE REBATE AMOUNT THAT, I BELIEVE
10 THAT WAS IN EFFECT FOR EACH ONE OF THOSE CATEGORIES.
11 IT'S A RATE PER M.

12 Q. CAN YOU TELL ME WHAT THE NUMBERS UNDER
13 THE PERCENT HEADING NEXT TO THE REBATE COLUMN ARE MEANT
14 TO REPRESENT?

15 A. IT'S BASED ON A 4TH QUARTER
16 DISPERSION, WOULD BE A PERCENT OF GENERIC SALES COMING
17 OUT OF EACH CATEGORY.

18 Q. CAN YOU TELL ME WHERE THE NUMBERS
19 THAT APPEAR IN THE WEIGHTED DOLLAR COLUMN COME FROM?

20 A. IT'S AN EXTENSION OF TAKING 37 PERCENT
21 TIMES THE 2 DOLLAR RATE.

22 Q. AND 15 PERCENT TIMES 2 AND A QUARTER,
23 ET CETERA?

24 A. YES, SIR.

25 Q. THAT ADDS UP TO \$2.43?

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824 24411

1 A. I CERTAINLY HOPE SO.

2 Q. WHAT IS THAT \$2.43 DESIGNED TO
3 REFLECT?

4 A. BASICALLY THE COMPOSITE AVERAGE FOR
5 THAT PERIOD OF TIME, A WEIGHTED AVERAGE FOR THAT PERIOD
6 OF TIME.

7 Q. AND THE NUMBERS UNDER THE NEXT COLUMN
8 PERCENT ON THIS DOCUMENT, WHAT ARE THOSE DESIGNED TO
9 REFLECT?

10 A. THE FIRST QUARTER PRELIMINARY RESULTS,
11 SALES DISPERSION.

12 Q. DID THE PERCENTAGE OF BROWN &
13 WILLIAMSON'S CUSTOMERS IN THE 1 TO 4 CATEGORY REMAIN
14 RELATIVELY CONSTANT THROUGHOUT 1984 AND 1985?

15 A. I DON'T KNOW.

16 Q. BUT IT WAS AT LEAST THE SAME DURING
17 THIS PERIOD?

18 A. THESE 2 PERIODS, YES, SIR.

19 Q. AND THE WEIGHTED DOLLARS COLUMN ON THE
20 FAR RIGHT-HAND OF THE PAGE, WHAT IS THAT DESIGNED TO
21 REPRESENT?

22 A. SAME AS THE OTHER WEIGHTING, BASED ON
23 THE FIRST QUARTERS VOLUME DISPARITY.

24 Q. WHY DOES THE TOTAL COME OUT HIGHER ON
25 THE WEIGHTED DOLLARS COLUMN ON THE FAR RIGHT AS OPPOSED

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824 24412

1 TO THE WEIGHTED DOLLARS COLUMN TO THE LEFT OF THAT?

2 A. BASICALLY YOU HAVE MORE CUSTOMERS
3 FALLING UNDER THE HIGHER PAID CATEGORIES IN THE FIRST
4 QUARTER THAN YOU DO IN THE 4TH QUARTER.

5 Q. DO YOU KNOW WHETHER THE NUMBER OF
6 CUSTOMERS IN THE HIGHEST CATEGORY ROSE IN THE PERIOD
7 SUBSEQUENT TO THE FIRST QUARTER OF 1985?

8 A. NO, SIR.

9 Q. CAN YOU TELL ME WHAT THE REFERENCE IS
10 TO CHECK REGISTER ON THAT PAGE UNDER THE HEADING VOLUME
11 REBATES BASED ON CHECKS WRITTEN?

12 A. CHECK REGISTER WOULD BE A DOCUMENT
13 THAT WOULD SUPPORT THE CHECKS THAT ARE PRINTED OUT FOR
14 PAYMENT.

15 Q. AN EXAMPLE OF WHICH IS THE PAGE
16 FOLLOWING, 187895?

17 A. YES, SIR.

18 Q. AND WHERE DID THE DOLLAR FIGURES THAT
19 APPEAR IN THE FIRST COLUMN NEXT TO THE CHECK REGISTER
20 LINE COME FROM ON PAGE 187895, \$2,516,168?

21 A. FROM THE NEXT PAGE, THE CHECK
22 REGISTER.

23 Q. AND WHAT IS THE NEXT COLUMN DESIGNED
24 TO REPRESENT, NEXT TO THE DOLLAR COLUMN ACROSS FROM THE
25 LINE CHECK REGISTER?

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824 24413

1 A. I BELIEVE IT'S VOLUME.

2 Q. AND THE RATE OF \$2.49 FOR THE LINE

3 CHECK REGISTER, DO YOU KNOW HOW THAT IS DERIVED?

4 A. IT'S A FUNCTION OF TAKING THE DOLLARS
5 DIVIDED BY THE VOLUMES.

6 Q. CAN YOU TELL ME WHAT THE REFERENCE IS
7 TO HAND CHECKS ON THIS PAGE, MR. WILSON?

8 A. THAT WOULD BE CIRCUMSTANCES WHERE THE
9 CHECKS GENERATED BY THE SYSTEM EITHER WERE INCORRECT
10 AND NEEDED TO BE ADJUSTED OR THERE WAS SPECIAL
11 SITUATIONS WHERE THERE NEEDED TO BE OTHER ADJUSTMENTS
12 MADE.

13 Q. ARE YOU AWARE OF ANY PARTICULAR
14 SPECIAL SITUATIONS WHERE ADJUSTMENTS NEEDED TO BE MADE?

15 A. I'M NOT AWARE OF ANY SPECIFICS IN
16 RELATIONSHIP TO SPECIFIC CUSTOMERS.

17 Q. DO YOU KNOW WHY THE RATE FIGURE THAT
18 APPEARS NEXT TO HAND CHECKS IS HIGHER THAN THE RATE
19 FIGURE THAT APPEARS NEXT TO CHECK REGISTER?

20 A. NO, SIR.

21 Q. WERE HAND CHECKS GENERALLY USED FOR
22 HIGHER VOLUME CUSTOMERS?

23 A. I COULD GIVE YOU AN EXAMPLE OF A HAND
24 CHECK THAT I'M AWARE OF, OKAY, BUT I CAN'T RELATE IT TO
25 A CUSTOMER. THAT WOULD BE A SITUATION WHERE A CUSTOMER

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824 24414

1 PURCHASED QUANTITIES FROM US IN WHICH WE HAD TO BACK
2 ORDER, HE QUALIFIED FOR A HIGHER REBATE. THE HAND CHECK
3 WOULD BRING HIM UP TO HIS HIGHEST LEVEL.

4 Q. ARE YOU AWARE OF ANY REPORTS OR OTHER
5 DOCUMENTS THAT GIVE INFORMATION AS TO WHAT HAND CHECKS
6 WERE WRITTEN FOR GENERIC REBATES IN 1984 AND 1985?

7 A. I'M NOT AWARE OF ANY DOCUMENTS.

8 Q. IF YOU LOOK AT THE LAST PAGE OF THIS
9 EXHIBIT, MR. WILSON, WAS THIS PART OF THE ATTACHMENT
10 THAT YOU SENT TO MR. BACON ON APRIL 24TH?

11 A. I BELIEVE SO.

12 Q. CAN YOU TELL ME WHAT THIS PAGE IS?

13 A. THIS IS A SYSTEMS GENERATED REPORT
14 THAT REFLECTS THE, I BELIEVE CASE QUANTITIES ORDERED BY
15 VARIOUS CATEGORIES OF CUSTOMERS. THIS REPORT WAS USED
16 TO CALCULATE THE PERCENTAGES USED ON AN EARLIER PAGE. I
17 BELIEVE. YES.

18 Q. WHICH PAGE ARE YOU REFERRING TO, MR.
19 WILSON?

20 A. DOCUMENT NUMBER 1878⁸5, IF YOU GO TO
21 THE FAR RIGHT-HAND SIDE OF DOCUMENT 18787, YOU WILL SEE
22 A PERCENTAGE COLUMN THERE.

23 Q. AND THAT PERCENTAGE COLUMN CORRESPONDS
24 WITH --

25 A. THE FIRST QUARTER OF 1985 VOLUMES ON

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824 24415

1 A ROUNDED BASIS.

2 Q. CORRECT. DOES THE PERCENT COLUMN ON
3 THE FAR LEFT OF 187897 CORRESPOND WITH THE OTHER PERCENT
4 COLUMN ON 187895?

5 A. YES, SIR, IT LOOKS LIKE IT DOES.

6 Q. ON A ROUNDED BASIS?

7 A. YES, SIR.

8 Q. CAN YOU TELL ME WHAT THE REFERENCE IS
9 TO EXCEPTION ONE ON PAGE 187895?

10 A. NO, SIR.

11 Q. DO YOU KNOW WHAT ANY OF THESE
12 EXCEPTIONS ARE?

13 A. NO, SIR.

14 Q. DO YOU KNOW WHAT THE COLUMN EXPECTED
15 UNDER THE HEADING CONTRACT LEVEL BASED ON IS DESIGNED
16 TO REFLECT?

17 A. NO, SIR.

18 Q. DO YOU KNOW WHAT THE COLUMN NEXT TO
19 THAT IS DESIGNED TO REFLECT?

20 A. THE ADJUSTED ACTUAL?

21 Q. YES.

22 A. NO, SIR.

23 Q. DO YOU KNOW WHAT ANY OF THE COLUMNS
24 AFTER THAT ARE DESIGNED TO REFLECT?

25 A. NO, SIR.

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824 24416

1 Q. DO YOU KNOW WHO HAD RESPONSIBILITY
2 FOR THE GENERATION OF GENERIC CONTRACT EXCEPTION REPORTS
3 AT BROWN & WILLIAMSON IN 1984 AND 1985?

4 A. I BELIEVE DAN DANT HAD CONTROL OF
5 THEM.

6 MR. PHILLIPS: HE MAY NOT KNOW BUT
7 YOU CERTAINLY DO HAVE THAT.

8 Q. LET'S MARK AS WILSON EXHIBIT 28, A 5-
9 PAGE DOCUMENT NUMBERS 170850 THROUGH 170854, CONSIST OF
10 A FILE NOTE REGARDING GENERIC REBATE PROGRAM BY CHRIS
11 DEIGNAN, WITH COPIES TO TOM AMONG OTHERS, AND A JULY
12 27TH, 1984 SUMMARY OF GENERIC REBATE PROGRAM BY B. G.
13 STAUSS TO C.J. HEGER WITH COPIES TO T.W. WILSON AMONG
14 OTHERS.

15 (WHEREUPON, WILSON DEPOSITION EXHIBIT
16 28 WAS MARKED FOR IDENTIFICATION.)

17 MR. PHILLIPS: YOU ARE COPIED BY HAND
18 UP HERE.

19 A. DO YOU WANT ME TO READ THIS WHOLE
20 THING?

21 Q. NO, I'M ONLY GOING TO ASK YOU A
22 QUESTION ABOUT THE FIRST PAGE.

23 A. OKAY.

24 Q. DO YOU HAVE AN UNDERSTANDING AS TO
25 WHAT MR. DEIGNAN MEANT WHEN HE SAID, "THE REGULAR VOLUME

1 AND PROMPT ENROLLMENT REBATES WILL BE RECLASSIFIED FOR
2 EXTERNAL REPORTING, SINCE THEY SERVE AS A REDUCTION TO
3 THE SELLING PRICE"?

4 A. YES, SIR.

5 Q. CAN YOU TELL ME WHAT THAT IS?

6 A. AT THE END OF THE EACH QUARTER WE ARE
7 REQUIRED TO SUBMIT TO B.A.T.U.S., OUR PARENT COMPANY,
8 WHAT WE CALL A STANDARD REPORTING PACKAGE WHICH IS
9 SUPPOSED TO BE PRESENTED IN ACCORDANCE WITH GOOD GENERAL
10 ACCOUNTING PRINCIPLES. GOOD ACCOUNTING PRINCIPLES WOULD
11 SAY THAT YOUR REBATES ARE A PRICE REDUCTION.

12 CONSEQUENTLY, FOR THAT REPORTING, THEY
13 TREAT IT AS SUCH. IN OTHER WORDS, SALES REVENUE AS
14 REPORTED IN STANDARD REPORTING PACKAGE WOULD BE LESS
15 REBATES.

16 Q. AS OPPOSED TO CLASSIFYING THOSE
17 REBATES AS AN EXPENSE AND SUBTRACTING THAT FROM REVENUE
18 TO ARRIVE AT BRAND CONTRIBUTION?

19 A. YES.

20 Q. IN BROWN AND WILLIAMSON'S OWN
21 CALCULATIONS OF BRAND CONTRIBUTION AND TRADE IN PROFIT,
22 WERE THOSE REBATES CONSIDERED AS REDUCTIONS TO SELLING
23 PRICE OR WERE THEY CONSIDERED AS EXPENSES OFFSET AGAINST
24 SELLING PRICE?

25 MR. PHILLIPS: OBJECTION.

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1 A. FOR OUR MANAGEMENT REPORTING RELEVANT
2 TO BRAND CONTRIBUTION WE TREAT REBATES AS AN EXPENSE,
3 WHICH IS A SALES PROMOTION SPECIFIC EXPENSE, WHICH IS A
4 DEDUCTION TO ARRIVE AT BRAND CONTRIBUTION.

5 Q. RATHER THAN A LESSENING OF THE
6 SELLING PRICE?

7 A. EXACTLY RIGHT.

8 Q. DO YOU KNOW WHETHER THE REGULAR
9 VOLUME PROMPT ENROLLMENT AND PROMOTIONAL ALLOWANCE
10 REBATE FIGURES THAT APPEAR ON PAGE ONE OF THIS EXHIBIT
11 WERE IN FACT THE RATES USED BY BROWN & WILLIAMSON IN
12 1984 AND 1985?

13 A. NO, I DON'T RECALL.

14 Q. LET'S MARK FOR IDENTIFICATION WILSON
15 EXHIBIT 29, WHICH IS A 2-PAGE MEMORANDUM WITH AN
16 ATTACHMENT DATED NOVEMBER 5, 1984, FROM D.P. CHRISTENSEN
17 TO TOM WILSON REGARDING GENERIC MONTHLY BUDGET CHARGES,
18 DOCUMENT NUMBER 127238 THROUGH 240.

19 (WHEREUPON, WILSON DEPOSITION EXHIBIT
20 29 WAS MARKED FOR IDENTIFICATION.)

21 A. YES, SIR.

22 Q. CAN YOU IDENTIFY THIS DOCUMENT FOR ME,
23 MR. WILSON?

24 A. IT'S A MEMORANDUM DATED NOVEMBER 5,
25 1984 ADDRESSED TO MYSELF FROM DON CHRISTENSEN. TOPIC IS

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824 24419

1 GENERIC MONTHLY BUDGET CHARGES.

2 Q. IF YOU LOOK DOWN AT HEADING 3 UNDER
3 THE CATEGORY GENERAL COMMENTS, MR. CHRISTENSEN REFERS TO
4 CHARGES OF \$57,952.

5 DO YOU RECALL THAT THOSE WERE THE
6 CHARGES THAT WERE REMOVED FROM THE SALES PROMOTION
7 SPECIFIC EXPENSES FOR BRANDED GENERICS IN NOVEMBER OF
8 1984?

9 MR. PHILLIPS: OBJECTION.

10 A. AS TO WHETHER THEY ARE THE EXACT SAME
11 DOLLARS OR THE EXACT SAME ITEMS COMPOSING THIS 57, I
12 CAN'T ATTEST TO. THIS DOCUMENT STIMULATED OUR
13 INVESTIGATION INTO THE INAPPROPRIATE CHARGES AND
14 CONSEQUENTLY WE DID MAKE SOME ADJUSTMENTS TO SALES
15 PROMOTION SPECIFIC, REMOVING DOLLARS OUT OF IT.

16 Q. BUT YOU DON'T RECALL WHETHER THIS IS
17 THE SAME \$57,952 THAT WAS REMOVED FROM SALES PROMOTION
18 SPECIFIC FOR BRANDED GENERICS?

19 A. NOT THAT PARTICULAR AMOUNT.

20 Q. DO YOU KNOW WHAT MR. CHRISTENSEN IS
21 REFERRING TO WHEN HE REFERS TO A QUOTE BRANDED PRODUCT
22 TO BE SOLD AT GENERIC PRICES CLOSE QUOTE?

23 A. I DON'T THINK HE'S REFERRING TO ANY
24 PARTICULAR BRANDED PRODUCT, ONLY THAT WE WOULD BE -- HAD
25 BEEN INCURRING COSTS RELEVANT TO A BRANDED PRODUCT OR

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824 24420

1 DOCUMENT ENTITLED MONTHLY RETURNED GOODS SUMMARY
2 COVERING THE MONTHS AUGUST 1985 THROUGH DECEMBER 1985,
3 PAGE NUMBERS 183394 THROUGH 183398.

4 (WHEREUPON, WILSON DEPOSITION EXHIBIT
5 3D WAS MARKED FOR IDENTIFICATION.)

6 Q. CAN YOU IDENTIFY THIS DOCUMENT FOR ME,
7 MR. WILSON?

8 A. IT'S A BROWN & WILLIAMSON TOBACCO
9 MONTHLY RETURNED GOODS SUMMARY REPORT FOR AUGUST,
10 SEPTEMBER, OCTOBER, NOVEMBER AND DECEMBER OF 1985.

11 Q. DO YOU KNOW WHO PREPARED THESE
12 SUMMARIES AT BROWN & WILLIAMSON?

13 A. I BELIEVE THIS REPORT EMANATES OUT OF
14 THE GENERAL ACCOUNTING ROOM.

15 Q. WERE MONTHLY RETURNED GOODS SUMMARY
16 REPORTS CREATED BY BROWN & WILLIAMSON IN 1984 THROUGH
17 JANUARY -- EXCUSE ME -- THROUGH JULY 1985?

18 A. WE HAVE HAD RETURNED GOODS REPORTS.
19 THIS COMPUTER PRICED REPORT HERE, I'M NOT SURE WHEN IT
20 WAS CREATED. IT DID NOT EXIST IN 1984.

21 Q. ARE THERE REPORTS REFLECTING RETURNED
22 GENERICS PRIOR TO AUGUST 1985?

23 A. I DON'T KNOW.

24 Q. IF YOU WILL LOOK AT THE DECEMBER 1985
25 REPORT THAT'S THE LAST PAGE OF THIS EXHIBIT, MR. WILSON?

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1 YOU WILL SEE UNDER THE COLUMN YEAR-TO-DATE FOR GENERICS
2 4,055.

3 CAN YOU TELL ME WHAT THAT REFERS TO?

4 A. ONLY THAT THAT WOULD BE THE RETURNS
5 PROCESSED THROUGH THE RETURNED GOODS DEPARTMENT.

6 Q. IS THE REFERENCE TO 4,055 CASES OR
7 CARTONS OR DOLLARS OR WHAT?

8 A. I DON'T KNOW.

9 Q. AND THE SAME IS TRUE FOR THE REFERENCE
10 TO 105 UNDER THE LAST YEAR-TO-DATE COLUMN FOR GENERICS?

11 A. RIGHT.

12 MR. PHILLIPS: THE SAME BEING THAT HE
13 DOESN'T KNOW?

14 Q. THE SAME BEING HE DOESN'T KNOW --

15 A. THAT'S CORRECT. I DON'T KNOW.

16 Q. -- WHAT THE REFERENCE TO 105 IS.

17 DOES BROWN & WILLIAMSON INCUR EXPENSES
18 WITH RESPECT TO RETURNED GOODS?

19 MR. PHILLIPS: OBJECTION.

20 A. ARE YOU REFERRING TO GENERICS
21 RETURNED GOODS?

22 Q. YES.

23 A. WE -- I DON'T KNOW.

24 Q. DOES THE FACT THAT THERE WERE SOME
25 RETURNED GOODS FOR GENERICS IN 1984 AND 1985 MEAN BROWN

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1 CONCLUDED AT THAT MEETING?

2 A. NOT CONCLUDED BUT WHAT WAS DISCUSSED.

3 Q. WHO ELSE WAS AT THAT MEETING?

4 A. DON CHRISTENSEN WAS THERE. THE NAMES
5 WILL ESCAPE ME, THE OTHER PEOPLE BUT I BELIEVE SOME AREA
6 MANAGERS WERE THERE.

7 Q. WHERE WAS THE D.A.I.P. PROGRAM
8 INSTITUTED BY BROWN & WILLIAMSON?

9 A. I BELIEVE WE ANNOUNCED D.A.I.P.
10 SOMETIME IN JANUARY OF 1985.

11 Q. WHAT IS THE REFERENCE ON THIS PAGE TO,
12 "D.A.I.P. RETROACTIVE TO 2-1-'85"?

13 A. I BELIEVE THAT THE D.A.I.P. REQUIRED
14 DISTRIBUTORS TO PURCHASE GENERICS ON A QUARTERLY BASIS.
15 THIS PROPOSITION PROPOSED THAT IT WOULD GO BACK FOR
16 THOSE CUSTOMERS NOT QUALIFYING. IF THEY DID QUALIFY
17 DURING THIS TIME PERIOD THAT THEY WOULD GO BACK TO
18 2-1-'85.

19 Q. IN OTHER WORDS, A CUSTOMER WHO DID NOT
20 STOCK GENERICS UNTIL SAY JUNE OF 1985 WOULD GET D.A.I.P.
21 PAYMENTS BACK TO FEBRUARY 1985 AS IF HE ORIGINALLY
22 QUALIFIED?

23 A. THAT'S HOW I INTERPRET THIS STATEMENT,
24 YES.

25 Q. IS IT YOUR INDEPENDENT RECOLLECTION

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1 THAT WAS THE SITUATION IN 1985?

2 A. NO, SIR, THIS IS JUST A PROPOSAL.
3 WHETHER IT WAS IMPLEMENTED OR NOT, I DON'T KNOW.

4 Q. CAN YOU TELL ME WHAT THAT
5 70,000-DOLLAR IMPACT ON LATEST ESTIMATE IS DESIGNED TO
6 REFLECT?

7 A. ONLY TO THE EFFECT THEY ARE PROPOSING
8 TO INCREASE THE REBATE PAYMENTS AN ADDITIONAL 5
9 PERCENT.

10 Q. WAS THAT DONE?

11 A. YES, SIR, I BELIEVE IT WAS.

12 AND THE FINANCIAL IMPACT OF THAT
13 AGAINST OUR LATEST ESTIMATE, WHATEVER THAT ESTIMATE
14 MIGHT HAVE BEEN AT THAT TIME, WAS \$70,000.

15 Q. IS THAT INCREASED RATE REFLECTED IN
16 THE SALES PROMOTION NON-SPECIFIC PERIODIC REPORTS?

17 MR. PHILLIPS: AS OPPOSED TO
18 NON-SPECIFIC?

19 Q. THAT'S RIGHT. THAT'S THE WAY THE
20 D.A.I.P. IS?

21 A. THIS IS A REBATE.

22 Q. I'M SORRY, IS IT REPORTED IN THE SALES
23 PROMOTION SPECIFIC REPORTS?

24 A. YES, SIR, I BELIEVE IT IS.

25 Q. DID BROWN & WILLIAMSON EVER INSTITUTE

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024 21424

1 A LIMITED RETURN GOODS PRIVILEGE AS IT'S REFERRED TO ON
2 THIS PAGE?

3 A. NOT THAT I CAN RECALL.

4 Q. DID BROWN & WILLIAMSON EVER INSTITUTE
5 A GOOD TASTE GUARANTEE TO CONSUMERS THAT'S REFERRED TO
6 ON THE SECOND PAGE?

7 A. NOT THAT I CAN RECALL.

8 Q. DID BROWN & WILLIAMSON EVER INSTITUTE
9 OTHER PAY FOR A PERFORMANCE PROGRAMS AS THEY ARE
10 REFERRED TO ON THIS PAGE?

11 A. I DON'T REMEMBER.

12 Q. LET'S MARK FOR IDENTIFICATION WILSON
13 EXHIBIT 37, DOCUMENT NUMBERS 183663 THROUGH 183685.

14 (WHEREUPON, WILSON DEPOSITION EXHIBIT
15 37 WAS MARKED FOR IDENTIFICATION.)

16 A. YES, SIR.

17 Q. CAN YOU IDENTIFY THIS DOCUMENT FOR
18 ME, MR. WILSON?

19 A. WELL, IT'S A COMPUTER PRINTOUT WITH
20 THE HEADING CUSTOMERS D.A.I.P. PAYMENTS CLASS 3 AND 4.
21 IT'S GOT A LOT OF PAGES TO IT.

22 Q. HAVE YOU EVER SEEN THIS DOCUMENT
23 BEFORE?

24 A. I'M NOT SURE THAT I'VE SEEN THIS
25 PARTICULAR DOCUMENT. I HAVE SEEN PRINTOUTS SIMILAR TO

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824 24425

1 IT.

2 Q. HAVE YOU SEEN DOCUMENTS DETAILING
3 D.A.I.P. PAYMENTS MADE TO CUSTOMERS IN 1986?

4 A. 1986 WE'VE NOT MADE ANY PAYMENTS.

5 Q. DID YOU NOT MAKE PAYMENTS IN 1986 FOR
6 1985 ACCRUALS?

7 A. YES, SIR.

8 Q. IS THAT WHAT THIS DOCUMENT IS
9 DESIGNED TO REFLECT?

10 A. I'M NOT SURE.

11 Q. HAVE ALL D.A.I.P. PAYMENTS FOR 1985
12 ACCRUALS BEEN MADE AS OF THIS TIME?

13 A. I DON'T KNOW THAT EITHER.

14 Q. DO YOU KNOW WHEN THOSE PAYMENTS WERE
15 BEGUN?

16 A. THEY WERE BEGUN SOMETIME IN JANUARY, I
17 BELIEVE.

18 Q. DO YOU KNOW WHETHER THIS DOCUMENT
19 REPRESENTS ALL OF THE PAYMENTS FOR THE D.A.I.P. PROGRAM
20 THAT WERE MADE IN 1986 FOR 1985 ACCRUALS?

21 A. NO, SIR, I DON'T.

22 Q. DO YOU KNOW WHO WAS RESPONSIBLE FOR
23 THE CREATION OF THIS DOCUMENT?

24 A. NO, SIR, I DON'T.

25 Q. CAN YOU EXPLAIN TO ME WHAT ANY OF THE

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1 COLUMNS ARE DESIGNED TO REFLECT?

2 A. IT WOULD BE ONLY SPECULATION ON MY
3 PART GIVEN I DIDN'T HAVE ANY INPUT TO THIS DOCUMENT.

4 Q. CAN YOU TELL ME GENERALLY HOW D.A.I.P.
5 PAYMENTS WERE CALCULATED?

6 A. GENERALLY IT WAS A FACTOR, A
7 PERCENTAGE OF GROSS SALES REVENUE BASED ON PURCHASES,
8 QUALIFIED PURCHASES.

9 Q. AND HOW WAS GROSS SALES REVENUE
10 DETERMINED?

11 A. IT'S NET INVOICE PRICE ADD BACK THE
12 DISCOUNT POSSIBLY ADJUSTING FOR ANY CREDITS THAT MAY
13 HAVE TAKEN PLACE DURING PRICE INCREASE.

14 Q. WHAT WOULD CAUSE CREDITS TO TAKE
15 PLACE?

16 A. A SITUATION WHERE WE WOULD HAVE A
17 PRICE INCREASE AT THE END OF THE YEAR, AND WE WOULD
18 ALLOW THE CUSTOMER TO PURCHASE QUANTITIES AT A OLD
19 PRICE. THAT'S COMMON PRACTICE WITH ALL THE COMPANIES
20 WITHIN THE INDUSTRY, BUT THE TIMING OF THE BILLING, THE
21 CUSTOMER DOESN'T GET THE CREDIT UNTIL AFTER THE CUSTOMER
22 IS REPORTED.

23 Q. ARE YOU AWARE OF ANY DOCUMENTS WHICH
24 BREAK OUT EITHER ACTUAL PAYMENTS OR ACCRUALS
25 SPECIFICALLY ATTRIBUTABLE TO GENERICS FOR THE D.A.I.P.

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1 PROGRAM?

2 A. COULD YOU RUN THAT ONE BY ME AGAIN?

3 (WHEREUPON, THE REPORTER THEN READ THE
4 RECORD.)

5 MR. PHILLIPS: EITHER ACTUAL PAYMENTS
6 OR ACCRUALS?

7 Q. YES.

8 MR. PHILLIPS: FOR SPECIFICALLY FOR
9 GENERICS.

10 Q. YES.

11 A. I'M NOT AWARE OF ANY REPORTS THAT
12 WOULD SPLIT THE ACTUAL EXPENSE OR THE ACRUED EXPENSE
13 INTO THE GENERICS.

14 Q. DID A CUSTOMER HAVE TO PURCHASE
15 GENERICS DIRECTLY FROM BROWN & WILLIAMSON IN ORDER TO
16 QUALIFY FOR D.A.I.P. PAYMENTS?

17 A. I'M NOT SURE WHAT YOU MEAN BY
18 DIRECTLY.

19 Q. WOULD A WHOLESALER, SAY, WHO CARRIED
20 BROWN & WILLIAMSON'S GENERICS BUT HAD NOT PURCHASED
21 THOSE GENERICS DIRECTLY FROM BROWN & WILLIAMSON QUALIFY
22 FOR DAIP PAYMENTS IF HE MET ALL THE OTHER REQUIREMENTS
23 OF THE PROGRAM?

24 MR. PHILLIPS: EVEN IF HE BOUGHT THEM
25 FROM ANOTHER WHOLESALER.

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824 24428

1 Q. FOR EXAMPLE --

2 A. I BELIEVE THAT SITUATION COULD EXIST,
3 AND HE WOULD PROBABLY QUALIFY BUT THERE AGAIN, THE
4 EXPERT IN THIS PARTICULAR AREA AS FAR AS EQUAL FILING IS
5 CONCERNED --

6 Q. WHO IS THE EXPERT REGARDING WHO WAS
7 QUALIFYING FOR THE D.A.I.P. PROGRAM?

8 A. WELL, IT WAS JERRY GREENIER.

9 Q. IS IT SOMEONE ELSE NOW?

10 A. TO BE QUITE HONEST WITH YOU I'M NOT
11 QUITE SURE WHO IT IS NOW.

12 Q. ARE YOU AWARE OF ANY DOCUMENTS THAT
13 DETAIL WHEN PARTICULAR ACCOUNTS MET D.A.I.P.
14 REQUIREMENTS?

15 A. NO, SIR, I'M NOT. ACCOUNTS BEING
16 CUSTOMERS?

17 Q. YES, SIR.

18 A. DID A CUSTOMER WHO PURCHASED BROWN &
19 WILLIAMSON'S GENERICS FOR A PARTICULAR TIME PERIOD AND
20 THEN SWITCHED TO LIGGETT'S GENERICS GET D.A.I.P.
21 PAYMENTS FOR THE TIME THAT CUSTOMER CARRIED BROWN &
22 WILLIAMSON'S GENERICS?

23 A. I DON'T HAVE ANY KNOWLEDGE OF ANY
24 SPECIFICS OF THAT NATURE.

25 Q. ARE YOU AWARE OF ANY DOCUMENT ENTITLED

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1 AN EXCEPTION REPORT FOR D.A.I.P?

2 A. I'VE HEARD THE TERM BUT I HAVE NOT
3 SEEN ANY DOCUMENTS OF THAT NATURE.

4 Q. DO YOU KNOW THAT SUCH DOCUMENTS EXIST?

5 A. NO, SIR, I HAVE NOT SEEN ANY.

6 Q. HAS ANYONE TOLD YOU SUCH DOCUMENTS
7 EXIST?

8 A. I BELIEVE I HAVE HEARD JERRY GREENIER
9 MENTION EXCEPTION REPORTS.

10 Q. FOR D.A.I.P?

11 A. I BELIEVE SO.

12 Q. DO YOU KNOW WHAT KIND OF INFORMATION
13 IS CONTAINED IN THOSE REPORTS?

14 A. NO, SIR.

15 Q. LET'S MARK FOR IDENTIFICATION WILSON
16 EXHIBIT 38, WHICH IS A 2-PAGE DOCUMENT. FIRST PAGE IS A
17 MEMORANDUM DATED JUNE 4, 1984 FROM D.P. CHRISTENSEN TO
18 J.L. HENDRICKS AND OTHERS WITH A HANDWRITTEN NOTATION
19 COPY GIVEN T.W.W. SECOND PAGE IS A MAY 24, 1984
20 MEMORANDUM FROM B.E.B. ENTITLED ACCOUNTING TREATMENT OF
21 GENERIC FIXTURES SUPPLIED BY B&W WITH CC TO T.W. WILSON
22 AMONG OTHERS, DOCUMENT NUMBERS 171872 AND 837.

23 (WHEREUPON, WILSON DEPOSITION EXHIBIT
24 38 WAS MARKED FOR IDENTIFICATION.)

25 Q. CAN YOU IDENTIFY THIS DOCUMENT FOR ME,

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1 MR. WILSON?

2 A. IT'S A MEMORANDUM, 2-PAGE DOCUMENT
3 MEMORANDUM ON THE FIRST PAGE DATED JUNE 4TH, 1984, TO
4 JIM HENDRICKS FROM DON CHRISTENSEN, SUBJECT GENERIC
5 FLOOR AND COUNTER DISPLAYS.

6 THE SECOND PAGE DOCUMENT IS A FILE
7 NOTE ON ACCOUNTING TREATMENT OF GENERIC FIXTURES
8 SUPPLIED BY B&W AUTHORED BY TONY BACON.

9 Q. DID YOU RECEIVE THIS EXHIBIT, MR.
10 WILSON?

11 A. YES, SIR.

12 Q. BOTH PAGES OF IT?

13 A. YES, SIR.

14 Q. CAN YOU TELL ME WHOSE HANDWRITING
15 APPEARS AT THE BOTTOM OF THE FIRST PAGE?

16 A. THAT'S MINE.

17 Q. ON WHAT BASIS DID YOU MAKE THE
18 STATEMENT, "ALL COSTS ASSOCIATED WITH THIS SHOULD BE
19 CHARGED TO SPECIFIC (GENERIC)"?

20 A. I DON'T RECALL HOW I CAME TO THAT
21 CONCLUSION.

22 Q. WAS THAT A DECISION YOU MADE OR DID
23 SOMEONE TELL YOU TO WRITE THAT ON THIS PAGE?

24 A. I DON'T REMEMBER.

25 Q. GENERIC FLOOR AND COUNTER DISPLAYS

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1 WERE NOT REPORTED IN SALES PROMOTION SPECIFIC, IS THAT
2 CORRECT, MR. WILSON?

3 A. THAT'S CORRECT.

4 Q. THEY WERE REPORTED IN SALES PROMOTION
5 NON-SPECIFIC?

6 A. THAT'S CORRECT.

7 Q. AND AS SUCH THEY DID NOT APPEAR IN
8 BRAND CONTRIBUTION FOR GENERICS; IS THAT CORRECT?

9 A. THAT'S CORRECT.

10 MR. PHILLIPS: I'LL OBJECT, LATE, TO
11 THAT QUESTION. GO HEAD.

12 Q. IF THEY HAD BEEN INCLUDED IN SALES
13 PROMOTION SPECIFIC, WOULD THEY HAVE GONE INTO THE
14 CALCULATIONS OF BRAND CONTRIBUTION FOR GENERICS?

15 MR. PHILLIPS: OBJECT TO THAT. GO ON.

16 A. SPECULATION. IF IN FACT YOU MADE
17 THAT ASSUMPTION, YES, THEY WOULD BE INCLUDED IN BRAND
18 CONTRIBUTION.

19 Q. TURN TO THE SECOND PAGE, MR. WILSON.
20 IS IT YOUR UNDERSTANDING THAT THE INTENT OF BROWN &
21 WILLIAMSON'S FIXTURE PROGRAM IN 1984 AND 1985 WAS TO
22 GEAR FIXTURE EXPENSE REGARDING PARTICULAR CUSTOMERS TO
23 VOLUME PURCHASES BY THAT CUSTOMER?

24 A. IF I WAS TO READ THIS DOCUMENT THE
25 FIRST STATEMENT IN THIS DOCUMENT SAYS, "THE INTENT OF

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1 THE PROGRAM IS THAT ACTUAL COST OF FIXTURES PER CUSTOMER
2 WOULD EQUAL TO OR LESS THAN THE 35 CENT PER M."

3 MR. PHILLIPS: HE'S ASKING YOU
4 INDEPENDENT OF THIS DOCUMENT.

5 A. OKAY. I'M NOT AWARE OF IT ON AN
6 INDEPENDENT BASIS OTHER THAN WHAT THIS DOCUMENT STATES.

7 Q. IS IT YOUR UNDERSTANDING THAT THIS
8 DOCUMENT STATES THAT THE INTENT OF THE PROGRAM WAS TO
9 GEAR FIXTURE EXPENSE REGARDING PARTICULAR CUSTOMERS TO
10 VOLUME PURCHASES BY THAT CUSTOMER?

11 MR. PHILLIPS: GIVE ME THAT ONE AGAIN.
12 (WHEREUPON, THE REPORTER THEN READ THE
13 RECORD.)

14 MR. PHILLIPS: IS THAT HIS
15 UNDERSTANDING AS HE SITS HERE NOW AND READS THIS
16 DOCUMENT OR IS THAT HIS UNDERSTANDING BASED ON THE
17 PRIOR KNOWLEDGE?

18 Q. IS IT HIS UNDERSTANDING NOW, BASED ON
19 HIS READING OF THE DOCUMENT NOW, AND HIS READING OF THE
20 DOCUMENT WHEN HE RECEIVED IT?

21 A. MY UNDERSTANDING IS READING THE
22 DOCUMENT NOW.

23 Q. THAT IS WHAT THE DOCUMENT STATES?

24 A. YES, THAT'S EXACTLY WHAT THE DOCUMENT
25 STATES.

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1 Q. DO YOU KNOW WHETHER BROWN &
2 WILLIAMSON STRUCTURED A REPORTING SYSTEM TO ASSURE NO
3 CUSTOMER RECEIVE A QUANTITY OF FIXTURES, THE VALUE WHICH
4 EXCEEDS 35 CENTS PER THOUSAND?

5 A. I'M NOT AWARE OF SUCH A SYSTEM.

6 Q. WAS EITHER OF THE 2 ALTERNATIVES
7 PRESENTED BY MR. BACON ADOPTED BY BROWN & WILLIAMSON IN
8 ITS ACCOUNTING FOR FIXTURE EXPENSES?

9 A. THE ALTERNATIVE B EXPENSE FIXTURES IN
10 A NORMAL MANNER.

11 Q. WHAT IS THE NORMAL MANNER OF EXPENSING
12 FIXTURES THAT'S REFERRED TO HERE?

13 A. THOSE FIXTURES UNDER A CERTAIN VALUE
14 WE EXPENSE AT THE TIME OF RECEIPT OR PAYMENT. FOR THOSE
15 FIXTURES THAT CARRY A HIGHER VALUE WE INVENTORY.

16 Q. WHAT DO YOU MEAN BY INVENTORY? WHEN
17 IS THE EXPENSE INCURRED WITH RESPECT TO THOSE HIGHER
18 VALUE ITEMS?

19 A. AT THE POINT IN TIME THEY ARE REMOVED.

20 Q. FROM BROWN & WILLIAMSON AND SENT TO
21 ITS CUSTOMERS?

22 A. AS TO WHETHER OR NOT ANY OF OUR
23 FIXTURES FALL WITHIN THAT CATEGORY, I DON'T KNOW.

24 Q. DID THE ALTERNATIVE THAT BROWN &
25 WILLIAMSON ADOPTED WITH RESPECT TO FIXTURES GIVE BROWN &

1 WILLIAMSON A TAX ADVANTAGE OVER ALTERNATIVE A?

2 A. IT'S A MORE AGGRESSIVE APPROACH TO
3 EXPENSING FIXTURES, YES.

4 Q. DOES THAT --

5 MR. PHILLIPS: IN TERMS OF THE
6 FEDERAL TAX SYSTEM?

7 A. YES, IN TERMS OF --

8 Q. DOES THAT MEAN THE FIXTURES ARE
9 EXPENSED SOONER AND THEREFORE REPORTED FOR INCOME
10 PURPOSES SOONER THAN THEY WOULD BE UNDER ALTERNATIVE A?

11 A. YES.

12 Q. IN THE 2 SCENARIOS YOU MENTIONED UNDER
13 ALTERNATIVE B, ONE BEING THAT YOU ACCRUE THE EXPENSE
14 WHEN IT'S SHIPPED OUT AND THE OTHER BEING YOU ACCRUE THE
15 EXPENSE WHEN YOU PURCHASE THE ITEM, YOU STATED THAT YOU
16 ARE NOT AWARE WHICH OF THOSE SCENARIOS BROWN &
17 WILLIAMSON'S FIXTURES FELL INTO?

18 A. I'M REASONABLY SURE THAT MOST OF OUR
19 FIXTURES FELL INTO THE EXPENSED WHEN RECEIVED.

20 MR. PHILLIPS: LET ME HAVE THAT
21 QUESTION BACK AGAIN.

22 (WHEREUPON, THE REPORTER THEN READ THE
23 RECORD.)

24 Q. LET'S MARK AS WILSON EXHIBIT 39, A
25 ONE-PAGE MEMORANDUM FROM J. CARTER TO J.A. ECKMANN WITH

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1 COPIES TO T.W. WILSON AMONG OTHERS REGARDING ACCOUNTING
2 FOR DISPLAYS USED FOR GENERICS, DOCUMENT NUMBERS 171869.

3 (WHEREUPON, WILSON DEPOSITION EXHIBIT
4 39 WAS MARKED FOR IDENTIFICATION.)

5 A. YES, SIR.

6 Q. CAN YOU IDENTIFY THIS DOCUMENT, MR.
7 WILSON?

8 A. YES, SIR. IT'S A MEMORANDUM TO JEFF
9 ECKMANN AUTHORED BY J. CARTER DATED AUGUST 17TH, 1984
10 ACCOUNTING FOR DISPLAYS USED FOR GENERICS.

11 Q. WHO IS J. CARTER?

12 A. JEAN CARTER.

13 Q. DID MISS CARTER WORK FOR MR. ECKMANN
14 AT THE TIME SHE WROTE THIS MEMORANDUM?

15 A. YES, SIR.

16 Q. DO YOU KNOW WHOSE HANDWRITING APPEARS
17 AT THE BOTTOM OF THIS MEMORANDUM?

18 A. MINE.

19 Q. WAS IT YOUR CONCLUSION AS OF THIS TIME
20 THAT SALES PROMOTION NON-SPECIFIC WAS THE PROPER
21 CATEGORY UNDER WHICH TO BOOK GENERIC FIXTURE EXPENSES?

22 A. YES, SIR.

23 Q. ON WHAT BASIS DID YOU MAKE THAT
24 CONCLUSION?

25 A. BASICALLY THE ARGUMENT THAT'S LAID OUT

1 IN THE MEMO HERE THAT THE HANDLING THEY RECOMMENDED
2 WOULD IMPAIR THE COMPARABILITY OF BRAND CONTRIBUTION FOR
3 GENERICS WITH THAT OF ALL OF OUR OTHER BRANDED
4 PRODUCTS. SO WE OPTED TO MAINTAIN CONSISTENCY IN
5 HANDLING IT THE SAME WAY AS ALL OF OUR OTHER DISPLAY
6 COST DOLLARS WITH STILL IDENTIFYING ITS SPECIFIC NATURE
7 TO GENERICS BY IDENTIFYING THROUGH A ONE-LINE ITEM --

8 Q. ARE --

9 A. -- CAPTION.

10 Q. EXCUSE ME.

11 A. THAT'S OKAY.

12 Q. ARE ANY DISPLAYS COSTS FOR BROWN &
13 WILLIAMSON'S OTHER BRANDS ATTRIBUTABLE TO SPECIFIC
14 BRANDS?

15 A. I CAN'T STATE YOU ANY SPECIFIC
16 EXAMPLES, NO.

17 Q. YOU ARE NOT AWARE OF ANY EXAMPLES?

18 A. I'M NOT AWARE OF ANY.

19 Q. YOU ARE AWARE OF DISPLAYS COSTS,
20 HOWEVER, FOR BROWN & WILLIAMSON'S OTHER BRANDS THAT ARE
21 NOT PARTICULAR TO OTHER BRANDS?

22 A. YES.

23 Q. ARE YOU AWARE OF ANY SALES PROMOTION
24 NON-SPECIFIC EXPENSES THAT ARE PARTICULAR TO SPECIFIC
25 BRANDS OTHER THAN GENERIC DISPLAYS?

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1 MR. PHILLIPS: GIVE ME THAT ONE AGAIN.
2 (WHEREUPON, THE REPORTER THEN READ THE
3 RECORD.)

4 A. I CAN'T IDENTIFY ANY AT THIS POINT.

5 Q. IS IT THE CASE THAT ALL OF THE
6 NON-SPECIFIC EXPENSES THAT YOU ARE AWARE OF, ASIDE FROM
7 GENERIC^U DISPLAYS, ARE NOT ATTRIBUTABLE TO SPECIFIC
8 BRANDS?

9 A. I'M NOT AWARE OF IT EITHER WAY.

10 Q. BUT YOU ARE AWARE OF A NUMBER OF SALES
11 PROMOTION NON-SPECIFIC EXPENSES THAT ARE NOT
12 ATTRIBUTABLE TO SPECIFIC BRANDS?

13 A. I'M^U AWARE OF MORE OF THOSE, YES.

14 Q. AND YOU ARE NOT AWARE OF ANY BESIDES
15 GENERIC DISPLAYS THAT ARE PARTICULAR TO SPECIFIC BRANDS?

16 MR. PHILLIPS: I THINK HE SAID HE'S
17 NOT AWARE EITHER WAY ON THAT ONE.

18 MR. CONDREN: NO, HE DIDN'T SAY THAT.
19 HE SAID HE IS AWARE OF NON-SPECIFIC EXPENSES THAT ARE
20 NOT PARTICULAR TO SPECIFIC BRANDS.

21 MR. PHILLIPS: RIGHT.

22 Q. IS THAT CORRECT, MR. WILSON?

23 A. THAT'S CORRECT.

24 Q. BUT YOU ARE NOT AWARE OF ANY
25 NON-SPECIFIC EXPENSES ASIDE FROM GENERIC DISPLAYS THAT

1 ARE ATTRIBUTABLE TO SPECIFIC BRANDS?

2 A. I'M NOT AWARE OF ANY.

3 Q. LET'S MARK FOR IDENTIFICATION WILSON

4 EXHIBIT 40, WHICH IS A ONE-PAGE FILE NOTE ENTITLED

5 GENERIC FIXTURES PREPARED BY J.L. BRUMLEVE,

6 B-R-U-M-L-E-V-E DATED JULY 11TH, 1985 WITH COPIES TO

7 B.E.B., C.J.H. AND T.W.W.

8 (WHEREUPON, WILSON DEPOSITION EXHIBIT

9 40 WAS MARKED FOR IDENTIFICATION.)

10 Q. CAN YOU IDENTIFY THIS DOCUMENT FOR ME,

11 MR. WILSON?

12 A. IT'S A FILE NOTE ON GENERIC FIXTURES

13 PREPARED BY JERRY BRUMLEVE ON JULY THE 11TH, 1985.

14 Q. MR. BRUMLEVE WORKED FOR YOU WHEN HE

15 PREPARED THIS MEMORANDUM; IS THAT CORRECT?

16 A. YES, SIR.

17 Q. DID YOU INSTRUCT HIM TO PREPARE THIS?

18 A. YES, SIR.

19 Q. WHY DID YOU INSTRUCT HIM TO DO THAT?

20 A. MR. BACON INSTRUCTED MYSELF TO PUT

21 TOGETHER AN ANALYSIS OF OUR TRACKING OF GENERIC

22 FIXTURES.

23 Q. FROM WHERE DID MR. BRUMLEVE GET THE

24 INFORMATION THAT APPEARS ON THIS DOCUMENT?

25 A. SOME OF IT HE WOULD HAVE RECEIVED

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1 FROM DISCUSSIONS WITH THE MARKETING ACCOUNTANT IN
2 GENERAL ACCOUNTING. OTHER PIECES OF IT HE WOULD HAVE
3 GOTTEN FROM EITHER CURRENT ESTIMATES OR ESTIMATE FILES.

4 Q. DOES THE FIXTURE SUPPORT LEVEL AMOUNT
5 OF 1,585.9 REPRESENT THE FIXTURE EXPENSE FOR THE GENERIC
6 VOLUME OF 4531 TIMES 35 CENTS PER THOUSAND CIGARETTES?

7 A. THAT'S WHAT THE CALCULATION REFLECTS.

8 Q. WHEN BRUMLEVE REFERS TO ACTUAL FIXTURE
9 SUPPORT EXPENSE JULY 1984 JUNE 1985, IS THAT THE FIXTURE
10 EXPENSE THAT IS REFLECTED IN THE SALES PROMOTION
11 NON-SPECIFIC REPORTS AS OF THAT TIME?

12 A. I BELIEVE SO.

13 Q. WHAT DOES MR. BRUMLEVE MEAN WHEN HE
14 REFERS TO CERTAIN FIXTURE EXPENSES BEING "COMMITTED AS
15 OF 6-30-'85"?

16 A. THIS IS WHERE HE HAS CONTACTED EITHER
17 THROUGH THE MARKETING ACCOUNTANT, GENERAL ACCOUNTING OR
18 HAS TOUCHED BASE WITH MARKETING PEOPLE IN TERMS OF WHAT
19 COMMITMENTS WE HAVE MADE FOR PURCHASES OF FIXTURES THAT
20 HAVE NOT BEEN RECORDED ON THE BOOKS AS OF THAT DAY.

21 Q. BUT WILL BE RECORDED AT SOME POINT IN
22 THE FUTURE BECAUSE THEY'VE ALREADY BEEN COMMITTED?

23 A. RIGHT.

24 Q. IS THE 63 CENTS PER THOUSAND FIGURE
25 DERIVED BY DIVIDING 2,849.5 BY THE VOLUME OF 4531 THAT

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1 APPEARS ABOVE?

2 A. YES.

3 Q. THE 63 CENTS PER THOUSAND THEN
4 REFLECTS THE ACTUAL RATE EXPENSED AND COMMITTED FOR THE
5 VOLUME THAT EXISTED AS OF THE TIME OF THIS MEMORANDUM:
6 IS THAT CORRECT?

7 MR. PHILLIPS: OBJECTION TO FORM.

8 A. THE 63 CENTS IS A MATHEMATICAL
9 CALCULATION THAT REFLECTS YOUR ACTUAL FIXTURE SUPPORT
10 AND YOUR COMMITTED FIXTURE SUPPORT THROUGH JULY 1984 TO
11 JUNE '85, AND IT IS MATHEMATICALLY ARRIVED AT THROUGH
12 DIVIDING YOUR VOLUMES FOR THAT SAME PERIOD.

13 Q. SO, IN OTHER WORDS, AS OF THE END OF
14 JUNE 1985, 63 CENTS PER THOUSAND HAD BEEN BOOKED AND/OR
15 COMMITTED FOR THE VOLUME THAT EXISTED AT THAT TIME?

16 MR. PHILLIPS: OBJECTION TO FORM.

17 Q. IS THAT CORRECT?

18 A. AS IT RELATES TO THAT VOLUME, YES.

19 Q. DOES THE 8141 FIGURE THAT APPEARS ON
20 THIS PAGE REPRESENT THE VOLUME THAT YOU WOULD NEED TO
21 ACHIEVE A 35 CENTS PER THOUSAND RATE ASSUMING NO MORE
22 EXPENSE FOR FIXTURES?

23 A. THAT'S CORRECT.

24 Q. DOES THE 3156 FIGURE REPRESENT THE
25 ADDITIONAL AMOUNT THAT CAN BE EXPENSED AND/OR COMMITTED

1 TO ACHIEVE A 35 CENTS PER THOUSAND RATE ASSUMING A
2 COMMERCIAL VOLUME OF 9,019 FOR 1984 AND 1985?

3 A. NO, SIR.

4 Q. WHAT DOES THAT 3,156 REPRESENT?

5 A. IT REPRESENTS THE FIXTURES SUPPORT
6 DOLLARS AT A 35 CENT PER M SUPPORT LEVEL FOR 9 B 019
7 UNITS.

8 Q. I SEE. IT REPRESENTS THE TOTAL AMOUNT
9 OF FIXTURE SUPPORT?

10 A. YES, SIR.

11 Q. AT 35 CENTS PER THOUSAND FOR THAT
12 VOLUME OF 9 BILLION 019?

13 A. YES, SIR.

14 Q. AND THE 306 REPRESENTS THE DIFFERENCE
15 BETWEEN 3,156 AND 2,849

16 A. YES, SIR.

17 Q. AND THAT REPRESENTS THE ADDITIONAL
18 THAT COULD BE SPENT TO ACHIEVE AN OVERALL FIXTURE
19 SUPPORT LEVEL OF \$3,156?

20 A. YES, SIR.

21 Q. DO YOU KNOW WHAT THE OVERALL GENERIC
22 DISPLAY EXPENSE THAT WAS ACCRUED IN 1984 AND 1984 WAS?

23 MR. PHILLIPS: GENERALLY?

24 Q. GENERALLY.

25 A. GENERALLY, IT APPROXIMATES A 35 CENTS

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1 SUPPORT LEVEL.

2 Q. IN OTHER WORDS, IF YOU TAKE GENERIC
3 VOLUME FOR THE 2 YEARS, AND APPLY THAT AGAINST THE
4 GENERIC DISPLAY COSTS ACCRUED FOR THOSE 2 YEARS, THAT
5 COMES OUT TO APPROXIMATELY 35 CENTS PER THOUSAND?

6 A. I BELIEVE THAT'S CORRECT.

7 Q. WAS THAT THE INTENTION OF BROWN &
8 WILLIAMSON TO DO THAT?

9 A. I BELIEVE SO.

10 Q. LET'S MARK FOR IDENTIFICATION WILSON
11 EXHIBIT 41, A DOCUMENT NUMBER 171899.

12 (WHEREUPON, WILSON DEPOSITION EXHIBIT
13 41 WAS MARKED FOR IDENTIFICATION.)

14 Q. HAVE YOU SEEN THIS DOCUMENT BEFORE,
15 MR. WILSON?

16 A. YES, SIR.

17 Q. CAN YOU TELL ME WHO PREPARED IT?

18 A. I'M NOT SURE.

19 Q. DID MR. BRUMLEVE PREPARE IT?

20 A. HE COULD HAVE PREPARED IT. I DON'T
21 RECOGNIZE THE HANDWRITING RIGHT OFF.

22 Q. DO THE NUMBERS THAT APPEAR UNDER 1984
23 FOR ACTUAL EXPENSE RECORDED REFLECT THE GENERIC DISPLAY
24 EXPENSE AS RECORDED IN THE SALES PROMOTION NON-SPECIFIC
25 REPORTS WE LOOKED AT PREVIOUSLY?

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1 MR. PHILLIPS: WHICH NUMBERS ARE YOU
2 REFERRING TO?

3 Q. 2129.4, DOES THAT REFLECT THE GENERIC
4 DISPLAY EXPENSE THAT IS RECORDED IN THE SALES PROMOTION
5 NON-SPECIFIC REPORTS FOR 1984?

6 A. I BELIEVE SO.

7 Q. AND THE FIGURE APPEARING FOR ACTUAL
8 EXPENSE RECORDED OF 464.1 FOR THE 6 MONTHS ENDING JUNE
9 1985, DOES THAT REFLECT THE ACTUAL EXPENSES RECORDED IN
10 THE SALES PROMOTION NON-SPECIFIC REPORTS FOR GENERIC
11 DISPLAYS?

12 A. I BELIEVE SO.

13 Q. AND WHEN YOU ADD THOSE 2 TOGETHER YOU
14 COME UP WITH THE SAME FIGURE THAT IS REFERENCED ON THE
15 PREVIOUS EXHIBIT FOR ACTUAL FIXTURE SUPPORT EXPENSE OF
16 \$2,593,000?

17 A. YES, SIR. .5.

18 Q. .5? DO YOU KNOW WHAT KINDS OF ITEMS
19 ARE REFERRED TO AT THE BOTTOM OF THIS PAGE SUCH AS 40
20 PACK TRAY, ET CETERA?

21 A. THAT'S JUST A TYPE OF FIXTURE.
22 APPARENTLY IT'S SOMEONE ELSE'S NOTES AS TO WHAT TYPE OF
23 FIXTURES WE HAVE COMMITTED TO.

24 Q. DO YOU KNOW WHAT A 40 PACK TRAY IS?

25 A. OTHER THAN IT'S A FIXTURE THAT HOLDS

1 40 PACKS.

2 Q. DO YOU KNOW WHAT IT'S MADE OF?

3 A. NO, SIR.

4 Q. DO YOU KNOW WHAT A PACK ORGANIZER IS?

5 A. NO, SIR.

6 Q. DO YOU KNOW WHAT A WIRE PACK ORGANIZER
7 IS?

8 A. NO, SIR.

9 Q. LET'S MARK AS WILSON EXHIBIT 42 A
10 SERIES OF DOCUMENTS PERTAINING TO THE COINS PROGRAM,
11 DOCUMENT NUMERS 170106 THROUGH 170111.

12 (WHEREUPON, WILSON DEPOSITION EXHIBIT
13 42 WAS MARKED FOR IDENTIFICATION.)

14 (WHEREUPON, A BREAK WAS THEN TAKEN.)

15 Q. CAN YOU IDENTIFY THIS DOCUMENT FOR ME,
16 MR. WILSON?

17 A. YES, IT'S A MEMORANDUM ADDRESSED TO
18 DICK BLOTT, CARL HEGER, LEE SANDERS AND IRV OTTE FROM
19 HARRY ROEDER DATED MARCH 7, 1985 SUBJECT COLD STORAGE,
20 COINS.

21 Q. DID YOU RECEIVE A COPY OF THIS
22 MEMORANDUM?

23 A. YES, SIR.

24 Q. CAN YOU IDENTIFY THE SECOND PAGE OF
25 THIS MEMORANDUM FOR ME?

1 A. SECOND PAGE IS A FILE NOTE DATED MAY
2 7TH, 1985, COINS VENDOR INCENTIVE PROGRAM AUTHORED BY
3 B.E. BACON.

4 Q. DID YOU RECEIVE A COPY OF THIS
5 MEMORANDUM FROM MR. BACON?

6 A. YES, SIR, I DID.

7 Q. DO YOU RECALL THAT YOU DID?

8 A. YES, SIR.

9 Q. DO YOU KNOW WHETHER BROWN & WILLIAMSON
10 SPENT \$250,000 FOR A VENDOR INCENTIVE PROGRAM IN 1986
11 FOR COINS?

12 A. I KNOW THAT IT WAS APPROVED. WHETHER
13 OR NOT WE SPENT THE FULL \$250,000, I'M NOT SURE OF.

14 Q. DO YOU KNOW WHETHER THAT APPROXIMATE
15 AMOUNT WAS SPENT IN 1985?

16 A. SOME PORTION OF THAT AMOUNT WAS
17 SPENT. AS TO WHAT DEGREE I DON'T KNOW.

18 Q. DO YOU KNOW WHETHER THE PORTION THAT
19 WAS SPENT IS REFLECTED IN THE SALES PROMOTION
20 NON-SPECIFIC REPORTS THAT WE DISCUSSED PREVIOUSLY?

21 A. I BELIEVE SO.

22 Q. DO YOU KNOW WHERE SPECIFICALLY IN
23 THOSE REPORTS THAT EXPENSE IS REFLECTED?

24 A. NO, SIR, I DON'T.

25 Q. YOU DON'T KNOW UNDER WHAT HEADING

1 THAT EXPENSE WOULD BE CARRIED?

2 A. NO, SIR.

3 Q. IT WOULD NOT REFRESH YOUR
4 RECOLLECTION TO LOOK AT THOSE REPORTS?

5 A. I'LL BE GLAD TO LOOK AT THEM BUT I'M
6 NOT SURE. I STILL CAN'T TELL YOU EXACTLY WHERE IT'S
7 CHARGED.

8 Q. DO YOU KNOW HOW THE 250,00-DOLLAR
9 FIGURE WAS ARRIVED AT THAT WAS REFERRED TO IN MR.
10 BACON'S MEMO? JUST THE FIRST PAGE OF MR. ANDERS' MEMO
11 MAY REFRESH YOUR RECOLLECTION?

12 A. ONLY TO THE EXTENT AS OUTLINED IN MR.
13 ANDERS' MEMO WOULD I KNOW.

14 Q. DO YOU HAVE A RECOLLECTION INDEPENDENT
15 OF THAT MEMO?

16 A. NO, SIR.

17 Q. LET'S MARK AS WILSON EXHIBIT 43 A
18 MEMORANDUM DATED JUNE 4, 1985 FROM T.W. WILSON FROM D.C.
19 CHRISTENSEN AND OTHERS REGARDING A COMPETITIVE GENERIC
20 OFFER TO GROCERS SUPPLY, DOCUMENTS NUMBER 171510 THROUGH
21 515.

22 (WHEREUPON, WILSON DEPOSITION EXHIBIT
23 43 WAS MARKED FOR IDENTIFICATION.)

24 Q. CAN YOU IDENTIFY THIS DOCUMENT FOR ME,
25 MR. WILSON?

1 A. YES, SIR. IT'S A MEMORANDUM DATED
2 JUNE 4TH, 1985, TO DON CHRISTENSEN FROM TOM WILSON.
3 IT'S BASICALLY A FINANCIAL ASSESSMENT PREPARED AT THE
4 REQUEST OF HARVEY KERR CONCERNING MEETING A COMPETITIVE
5 GENERIC OFFER TO GROCERY SUPPLY IN TEXAS.

6 Q. CAN YOU TELL ME WHO PREPARED THE
7 SECOND PAGE OF THIS DOCUMENT, MR. WILSON?

8 A. JERRY BRUMLEVE.

9 Q. DID MR. BRUMLEVE WORK FOR YOU AT THE
10 TIME HE PREPARED THIS DOCUMENT?

11 A. YES, SIR.

12 Q. DID YOU INSTRUCT HIM TO PREPARE IT?

13 A. YES, SIR.

14 Q. DO YOU KNOW WHERE MR. BRUMLEVE GOT THE
15 FIGURES THAT APPEAR ON THIS PAGE?

16 LET'S GO THROUGH THEM ONE BY ONE.

17 WHERE DID HE GET THE NET SELLING PRICE
18 FIGURES?

19 A. THE ACTUAL DOCUMENT HE GOT THAT FROM
20 I'M NOT SURE. HE WOULD HAVE PROBABLY USED THE BEST
21 ESTIMATE OF WHAT THE NET SELLING PRICE WAS AT BETWEEN
22 THAT PERIOD JANUARY THROUGH DECEMBER, 1985.

23 Q. WHERE DID HE GET THE VARIABLE COST
24 FIGURES?

25 A. THAT WOULD HAVE MORE THAN LIKELY BEEN

1 PROVIDED BY THE COST GROUP.

2 Q. WHERE DID HE GET THE DISTRIBUTOR
3 REBATE FIGURES?

4 A. HE WOULD HAVE CALCULATED THAT BASED ON
5 THE NET SELLING PRICE. GROSS SELLING PRICE, I'M SORRY.

6 Q. WAS THE COMPETITIVE RESPONSE FIGURE
7 THE RESULT OF THE EXERCISE THAT WAS UNDERTAKEN WITH
8 RESPECT TO MR. KERR'S REQUEST?

9 A. YES, SIR.

10 Q. WHERE DID MR. BRUMLEVE GET THE FIXTURE
11 FIGURES THAT APPEAR?

12 A. THAT'S THE 35 CENTS SUPPORT LEVEL
13 FIXTURE THAT WE NORMALLY USE TO CALCULATE THESE TYPES OF
14 ESTIMATES.

15 Q. THESE TYPES OF ESTIMATES MEANING
16 MEETING COMPETITION ESTIMATES OR TRADING PROFIT
17 ESTIMATES GENERALLY?

18 A. I WOULD SAY MORE, IN THE LINE WITH
19 MEETING COMPETITIVE RESPONSES.

20 Q. DID FIXTURE CALCULATIONS OF 35 CENTS A
21 THOUSAND GO INTO TRADING PROFIT CALCULATIONS GENERALLY
22 DONE BY BROWN & WILLIAMSON IN 1984 AND 1985?

23 A. VARIOUS ASSUMPTIONS WERE USED IN
24 CALCULATING TRADING PROFIT DURING 1985.

25 Q. AND A 35 CENTS PER THOUSAND ASSESSMENT

1 FOR FIXTURE COSTS WAS USED IN SOME OF THOSE CALCULATIONS
2 AND NOT IN OTHERS?

3 A. THAT'S CORRECT.

4 Q. WHAT DO THE MANUFACTURING OVERHEADS
5 FIGURES OF 25 CENTS PER THOUSAND COME FROM?

6 A. IT WAS PROVIDED TO US EITHER THROUGH
7 MR. ^SBACON OR THE COST GROUP.

8 Q. WHERE DID THE D.A.I.P. (GENERICIS ONLY)
9 COME FROM?

10 A. THAT WAS CALCULATED FROM THEM.

11 Q. DID MR. BRUMLEVE CALCULATE THAT?

12 A. YES.

13 Q. DO YOU KNOW WHAT THE D.A.I.P. AMOUNT
14 PER THOUSAND WOULD HAVE BEEN IF MR. BRUMLEVE HAD
15 CALCULATED THOSE FIGURES USING ALL D.A.I.P. PAYMENTS AND
16 NOT ONLY THOSE FOR GENERICIS?

17 MR. PHILLIPS: OBJECTION.

18 A. I'M NOT SURE I FOLLOWED THE QUESTION.

19 Q. LET ME RESTATE IT.

20 SAY YOU TOOK ALL OF THE D.A.I.P.
21 PAYMENTS TO BE ACCRUED AND ATTRIBUTED THEM ONLY TO
22 GENERIC VOLUME.

23 CAN YOU TELL ME WHAT THE FIGURE PER
24 THOUSAND WOULD BE INSTEAD OF .067?

25 A. NO, SIR.

1 Q. DO YOU KNOW WHAT THE PROFIT SHARING
2 FIGURES MR. BRUMLEVE PUT HERE ARE FROM?

3 A. IT'S A CALCULATED NUMBER.

4 Q. BY MR. BRUMLEVE?

5 A. YES.

6 Q. HOW DID HE CALCULATES THAT; DO YOU
7 KNOW?

8 A. IT'S 3 PERCENT OF THE CONTRIBUTION
9 BEFORE PROFIT SHARING.

10 Q. IS THAT HOW PROFIT SHARING WAS
11 GENERALLY CALCULATED BY BROWN & WILLIAMSON IN 1985?

12 A. YES.

13 Q. DO YOU KNOW WHETHER THESE TRADE IN
14 PROFIT FIGURES TAKE INTO ACCOUNT ANY INVENTORY CARRYING
15 COSTS?

16 A. I'M SORRY, IT MAY BE 6 PERCENT. I'M
17 NOT SURE.

18 IT'S 3 PERCENT.

19 Q. IT IS 3 PERCENT?

20 A. IT IS 3 PERCENT.

21 Q. DO YOU KNOW WHETHER THE TRADE IN
22 PROFIT FIGURES THAT APPEAR HERE ARE 54 PER THOUSAND TAKE
23 INTO ACCOUNT ANY INVENTORY CARRYING COSTS?

24 MR. PHILLIPS: OBJECTION.

25 A. THERE IS NO INVENTORY CARRYING COSTS

1 DEDUCTED OR INCLUDED IN THESE ASSUMPTIONS IN ARRIVING AT
2 TRADING PROFIT.

3 Q. OKAY. IF YOU LOOK AT PAGE 171513, MR.
4 WILSON, AS I UNDERSTAND IT IN ARRIVING AT THE CONCLUSION
5 THAT BROWN & WILLIAMSON WAS TO MAKE A COMPETITIVE
6 RESPONSE OF 25 CENTS A THOUSAND CERTAIN COMPARISONS WERE
7 MADE WITH LIGGETT & MYERS PROGRAMS; IS THAT CORRECT?

8 A. YES, SIR.

9 Q. DO YOU KNOW WHETHER A LIGGETT & MYERS
10 CUSTOMER AT THIS TIME WAS REQUIRED TO STOCK GENERICS IN
11 ORDER TO GET PAYMENTS FOR CARRYING OF A FULL REVENUE
12 BRANDS?

13 A. NO, SIR, I'M NOT FAMILIAR WITH THAT.

14 Q. YOU DON'T KNOW?

15 A. NO, I DON'T KNOW.

16 Q. DOES THE CALCULATION HERE OF \$24,104
17 FOR PARTNERS IN PROFIT ASSUME THAT A CUSTOMER WOULD HAVE
18 TO CARRY BOTH GENERICS AND FULL REVENUE BRANDS TO GET
19 PARTNERS IN PROFIT PAYMENTS?

20 MR. PHILLIPS: WHERE ARE YOU?

21 A. WHERE ARE YOU AT?

22 Q. (ATTORNEY INDICATING)

23 A. OKAY. COULD YOU RESTATE THE QUESTION?

24 Q. SURE. LET ME PHRASE IT ANOTHER WAY.

25 A. OKAY.

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1 Q. THE \$24,904 INCLUDES BOTH THE PAYMENTS
2 TO BE MADE UNDER LIGGETT'S PROGRAM FOR FULL REVENUE
3 BRANDS AND FOR GENERICS; IS THAT CORRECT?

4 A. THAT'S WHAT IT LOOKS LIKE, YES, SIR.

5 Q. THE \$24,904 IS THE SUM OF 13,174 AND
6 11,729; IS THAT CORRECT?

7 A. YES, SIR.

8 Q. ASSUMING THAT AN L&M CUSTOMER COULD
9 STOCK FULL REVENUE BRANDS AND GET THE \$13,174 WITHOUT
10 STOCKING GENERICS, ISN'T IT TRUE THAT THE CUSTOMER WOULD
11 LOSE ONLY 11,729 FOR GENERICS BY CARRYING BROWN &
12 WILLIAMSON'S GENERICS?

13 MR. PHILLIPS: OBJECTION.

14 A. YOU ARE ASKING ME TO SPECULATE AND I
15 JUST DON'T KNOW ENOUGH ABOUT LIGGETT'S OFFER TO BE ABLE
16 TO SAY WHETHER THEY WOULD OR WOULD NOT.

17 Q. I'M ASKING YOU TO DRAW A CONCLUSION --

18 MR. PHILLIPS: NO, YOU'RE ASKING --

19 Q. -- BASED ON AN ASSUMPTION THAT I'M
20 ASKING YOU TO MAKE. I'M NOT ASKING YOU WHETHER THE
21 ASSUMPTION IS TRUE. I'M ASKING YOU WHETHER ASSUMING THE
22 ASSUMPTION IS TRUE, THE QUESTION I'VE ASKED IS CORRECT.

23 MR. PHILLIPS: YOU ARE ASKING HIM TO
24 MAKE ASSUMPTIONS WHICH ARE BEYOND HIS KNOWLEDGE AND I
25 THINK HIS ANSWER IS PERFECTLY APPROPRIATE.

1 DID YOU PREPARE THIS PAGE, BY THE WAY?
2 THE WITNESS: NO, HARVEY KERR PREPARED
3 IT.

4 Q. IF AN L&M CUSTOMER COULD GET PAYMENTS
5 FOR FULL REVENUE BRANDS WITHOUT STOCKING GENERICS, WOULD
6 HE, UNDER THESE CALCULATIONS, STILL GET \$13,174 IF HE
7 DID NOT STOCK L&M GENERICS BUT RATHER STOCKED B&W
8 GENERICS?

9 MR. PHILLIPS: OBJECTION. READ IT
10 BACK TO ME.

11 (WHEREUPON, THE REPORTER THEN READ THE
12 RECORD.)

13 MR. PHILLIPS: BESIDES THE OTHER
14 REASONS, I DON'T UNDERSTAND IT. OBJECTION.

15 THE WITNESS: DO YOU WANT ME TO
16 ANSWER?

17 MR. PHILLIPS: YEAH, YOU CAN ANSWER.

18 A. YES.

19 Q. DO YOU KNOW WHAT THE SUBTRACTION OF
20 \$600 IS FOR UNDER THE INCENTIVE OFFER ADV. ON THIS PAGE,
21 MR. WILSON?

22 A. I DON'T RECALL.

23 Q. DO YOU KNOW WHETHER BROWN &
24 WILLIAMSON WAS RUNNING ANY STICKERING PROGRAMS AT THE
25 TIME OF THIS EXERCISE THAT YOU ENGAGED IN FOR MR. KERR

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1 REGARDING GROCERS SUPPLY?

2 MR. PHILLIPS: WHAT EXERCISE ARE YOU
3 REFERRING TO THAT HE ENGAGED IN?

4 Q. THAT MR. BRUMLEVE ENGAGED IN WITH
5 RESPECT TO DETERMINING THE APPROPRIATE COMPETITIVE
6 RESPONSE.

7 A. I CAN'T RECALL THAT I'M AWARE OF ANY
8 PARTICULAR STICKERING DURING A PARTICULAR TIME PERIOD
9 STICKERING COULD HAVE BEEN GOING ON.

10 Q. ARE THERE ANY STICKERING PROGRAMS
11 REFLECTED IN MR. BRUMLEVE'S CALCULATION ON THE SECOND
12 PAGE OF THIS EXHIBIT?

13 A. I DON'T BELIEVE SO.

14 Q. LET ME SHOW YOU WHAT HAS PREVIOUSLY
15 BEEN MARKED AS WILSON EXHIBIT 11, AND I'M JUST GOING TO
16 STEP AROUND TO THE SIDE FOR A MOMENT HERE BECAUSE I HAVE
17 ONLY ONE COPY OF IT AND SHOW YOU THE SECOND PAGE OF THAT
18 EXHIBIT DOCUMENT NUMBER 129932. IF YOU WILL LOOK AT THE
19 4-11-'85 UPDATE AS COMPARED TO THE 4-19-'85 PRICING
20 STRATEGY UPDATE, YOU WILL SEE A DIFFERENCE OF 2.7
21 BETWEEN THE OTHER PROMOTION FIGURE FOR 4-11 AND 5.2 FOR
22 THE OTHER PROMOTIONS FIGURE FOR 4-19.

23 DO YOU KNOW WHAT THAT DIFFERENCE IS
24 ATTRIBUTABLE TO, MR. WILSON?

25 A. IT'S ATTRIBUTABLE TO AN ASSUMPTION

1 THAT THERE WOULD BE AN ADDITIONAL 2.5 MILLION DOLLARS
2 SPENT IN THE 4-19 ESTIMATE OF BRAND CONTRIBUTION VERSUS
3 THE ESTIMATE OF 4-11-'85.

4 Q. DID THAT ADDITIONAL 2.5 REFLECT A
5 STICKERING PROGRAM?

6 A. IT WAS --

7 MR. PHILLIPS: DID THE ASSUMPTION
8 THAT WAS MADE BETWEEN THE 2 REFLECT?

9 A. I BELIEVE SOME OF THE 2.5 WAS LINED UP
10 OR WAS IDENTIFIED TO BE USED AS STICKERING.

11 Q. DO YOU KNOW WHETHER OR NOT THAT
12 STICKERING PROGRAM WAS IMPLEMENTED SOMETIME SUBSEQUENT
13 TO APRIL 19TH, 1985?

14 A. I'M AWARE THAT THE 2.5 MILLION DOLLARS
15 WAS APPROVED. AS TO WHAT TIME PERIOD IN WHICH IT WAS
16 IMPLEMENTED, I DON'T KNOW.

17 Q. WAS IT IMPLEMENTED PRIOR TO JUNE OF
18 1985; DO YOU KNOW?

19 A. I HONESTLY DON'T RECALL.

20 Q. LET'S MARK FOR IDENTIFICATION WILSON
21 EXHIBIT 44, WHICH IS A ONE-PAGE DOCUMENT ENTITLED
22 INCREMENTAL COST OF EXTENDING GENERIC CREDIT TERMS FROM
23 14 TO 30 DAYS DATED 12-13-1984, DOCUMENT NUMBER 171860.

24 (WHEREUPON, WILSON DEPOSITION EXHIBIT
25 44 WAS MARKED FOR IDENTIFICATION.)

1 A. OKAY.

2 Q. CAN YOU IDENTIFY THIS DOCUMENT FOR ME,
3 MR. WILSON?

4 A. IT LOOKS LIKE A CALCULATION OF
5 INCREMENTAL COSTS OF EXTENDING GENERIC CREDIT TERMS
6 FROM 14 DAYS TO 30 DAYS.

7 Q. DID YOU RECEIVE A COPY OF THIS
8 DOCUMENT, MR. WILSON?

9 A. YES, SIR.

10 Q. DO YOU KNOW WHO PREPARED IT?

11 A. I BELIEVE ONE OF MY STAFF MEMBERS MAY
12 HAVE PREPARED IT.

13 Q. ON WHAT BASIS DO YOU DRAW THAT
14 CONCLUSION?

15 A. MY SECRETARY TYPED IT.

16 Q. DO YOU KNOW WHICH OF YOUR STAFF
17 MEMBERS PREPARED THIS?

18 A. NO, SIR.

19 Q. DO YOU RECALL INSTRUCTING ONE OF YOUR
20 STAFF MEMBERS TO PREPARE DOCUMENTS SUCH AS THIS?

21 A. I DON'T RECALL ANY SPECIFICS ABOUT IT.

22 Q. DO YOU HAVE ANY CONVERSATIONS WITH
23 MR. BACON REGARDING CALCULATIONS FOR INCREMENTAL COSTS
24 OF EXTENDING GENERIC CREDIT TERMS FROM 14 TO 30 DAYS?

25 A. I DON'T RECALL SUCH A CONVERSATION,

200

1 BUT IT'S VERY LIKELY I COULD HAVE HAD ONE.

2 Q. DO YOU KNOW WHAT CREDIT TERMS BROWN &
3 WILLIAMSON HAD FROM THE TIME IT FIRST BEGAN SELLING
4 GENERIC CIGARETTES TO NOVEMBER 30TH, 1984?

5 A. TO THE BEST OF MY KNOWLEDGE THE
6 CREDIT TERMS HAVE BEEN 14 DAYS, 3 AND A QUARTER PERCENT
7 DISCOUNT OR 2 PERCENT ON GENERICS.

8 Q. IN OTHER WORDS, IF THE BILL WAS PAID
9 WITHIN 14 DAYS THE ACCOUNT WOULD GET A 2 PERCENT
10 DISCOUNT?

11 A. GENERICS WOULD, YES.

12 Q. FOR GENERICS, RIGHT.

13 Q. DOES THE NOTE THAT APPEARS AT THE
14 BOTTOM OF THIS PAGE INDICATE THAT GENERICS WERE ON 2
15 PERCENT 30 DAY TERMS UNTIL NOVEMBER 30TH?

16 A. I'M NOT SURE WHEN THE -- FROM THIS
17 NOTE I CAN'T TELL WHEN THE START DATE OF THE TERMS WERE
18 CHANGED. FROM READING THE NOTE IT IMPLIES THAT IT'S
19 EFFECTIVE UNTIL NOVEMBER 30.

20 Q. LET ME SHOW YOU WHAT'S PREVIOUSLY BEEN
21 MARKED AS DANT EXHIBIT 11, WHICH STATES IN PART, "AS A
22 REMINDER PLEASE BE AWARE THE INTRODUCTORY TERMS ON ALL
23 GENERICS/PRIVATE LABEL PRODUCTS EXPIRE NOVEMBER 30TH
24 1984."

25 DOES THAT REFRESH YOUR RECOLLECTION,

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1 MR. WILSON, FROM THE TIME GENERICS WERE FIRST SOLD UNTIL
2 NOVEMBER 30TH, 1984 THE CREDIT TERMS WERE 2 PERCENT 30
3 DAYS RATHER THAN 2 PERCENT 14 DAYS?

4 A. THIS DOCUMENT IMPLIES THAT.

5 Q. YOU HAVE NO INDEPENDENT RECOLLECTION?

6 A. NO, SIR I DON'T.

7 Q. BUT YOU BELIEVE THAT'S WHAT THE
8 DOCUMENT INDICATES?

9 A. YES.

10 Q. WERE 2 PERCENT 30 DAY CREDIT TERMS
11 INSTITUTED FOR THE PERIOD DECEMBER 17TH THROUGH DECEMBER
12 30TH BY BROWN & WILLIAMSON FOR GENERICS?

13 A. I DON'T RECALL.

14 Q. DOES THIS DOCUMENT INDICATE THAT THE
15 INCREMENTAL COST OF SUCH CREDIT TERMS FOR THAT
16 APPROXIMATELY 2 WEEK PERIOD WOULD BE \$31,152?

17 MR. PHILLIPS: INCREMENTAL COSTS OF
18 EXTENDING --

19 MR. CONDREN: INCREMENT COSTS OF
20 HAVING 30 DAY RATHER THAN 14 DAY CREDIT TERMS.

21 MR. PHILLIPS: FOR THIS PERIOD?

22 Q. FOR THE DECEMBER 17TH TO THE DECEMBER
23 30TH PERIOD.

24 A. YES, SIR, THE 11 DAY PERIOD WE'VE
25 CALCULATED THE INCREMENTAL COSTS WOULD BE SOMEWHERE

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1 AROUND \$31,000.

2 Q. CAN YOU TELL ME HOW THAT CALCULATION
3 WAS MADE?

4 A. DO YOU WANT ME TO WALK YOU THROUGH
5 THE NUMBERS?

6 Q. YES, PLEASE.

7 A. OKAY. NET SELLING PRICE WAS ASSUMED
8 TO BE 18.74.

9 Q. OKAY.

10 A. INTEREST RATE OF 11 1/2 PERCENT. THE
11 PRIME AT THAT POINT IN TIME WAS 11 AND A QUARTER, AND WE
12 ADDED A QUARTER OF A PERCENT TO PRIME.

13 Q. WHY IS THAT ONE QUARTER PERCENT ADDED?

14 A. IT'S JUST AN ASSUMPTION WE MADE IN
15 ARRIVING AT THIS.

16 Q. WHY DID YOU MAKE THAT ASSUMPTION?

17 A. BECAUSE I WOULD VENTURE TO SAY IN MOST
18 CASES IF A DISTRIBUTOR WAS TO BORROW MONEYS HE WOULD
19 HAVE TO PAY PRIME PLUS AN ADDITIONAL PERCENTAGE.

20 Q. AND THAT ONE QUARTER PERCENT IS
21 DESIGNED TO REFLECT THAT ADDITIONAL PERCENTAGE?

22 A. YES.

23 Q. GO AHEAD.

24 A. THE ANNUAL INTEREST PER M OF \$2.15 IS
25 AN EXTENSION OF TAKING 18.74 TIMES 11.5 PERCENT. WE

203

1 ASSUME THERE WERE 365 INTEREST DAYS, WHICH GIVES YOU AN
2 INTEREST FACTOR PER DAY OF .0059.

3 Q. THAT IS DERIVED BY DIVIDING 2.1551 BY
4 365?

5 A. THAT'S CORRECT.

6 Q. ALL RIGHT.

7 S A. TIMES A NUMBER OF ADDITIONAL DAYS 16
8 GIVES YOU YOUR .0944 COST OF ADDITIONAL TERMS PER M.
9 THEN WE CALCULATED THE NUMBER OF UNITS, DAILY UNITS OF
10 30 MILLION UNITS.

11 Q. WHERE DID YOU GET THAT NUMBER FROM?
12 HOW DID YOU ARRIVE AT THAT?

13 A. I DON'T RECALL WHAT THAT -- WHERE THAT
14 VOLUME CAME FROM.

15 Q. GO AHEAD. IS THE COST PER DAY FIGURE
16 ARRIVED AT BY MULTIPLYING THE DAILY UNITS TIMES THE COST
17 OF THE ADDITIONAL TERMS PER M?

18 A. YES, SIR.

19 Q. AND THEN YOU MULTIPLY 2,832 TIMES 11
20 TO GET 31,152?

21 A. YES, SIR.

22 Q. CAN YOU TELL ME, MR. WILSON, WHY YOU
23 USED 16 DAYS IN ARRIVING AT THE COST OF ADDITIONAL TERMS
24 PER M BUT ONLY 11 DAYS IN ARRIVING AT THE INCREMENTAL
25 COST?

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1 A. BECAUSE WHEN YOU BORROW MONEY FROM A
2 BANK, THEY CHARGE YOU INTEREST ON WEEKENDS.

3 Q. AND THAT WOULD EXPLAIN WHY YOU HAD THE
4 16 DAY FIGURE --

5 A. YES.

6 Q. -- IN CALCULATING COST OF ADDITIONAL
7 TERMS?

8 A. RIGHT.

9 Q. WHY DID YOU ONLY USE 11 DAYS FOR THE
10 INCREMENTAL COST?

11 A. BECAUSE THOSE ARE THE ONLY DAYS IN
12 WHICH -- THAT WOULD BE A NUMBER OF DAYS IN WHICH THE
13 DISTRIBUTOR WOULD HAVE POSSESSION OF THAT MONEY.

14 Q. HE WOULDN'T HAVE THAT POSSESSION OF
15 THAT MONEY ON THE WEEKEND? ISN'T IT THE CASE, MR.
16 WILSON, THAT EVERY DAY THAT GOES BY THAT BROWN &
17 WILLIAMSON DOESN'T HAVE THAT MONEY CREATES COST FOR
18 BROWN & WILLIAMSON?

19 MR. PHILLIPS: OBJECTION.

20 Q. LET ME ASK A DIFFERENT QUESTION.

21 A. I NEED A CALENDAR.

22 Q. IS THIS EXERCISE DESIGNED TO REFLECT
23 THE COST TO BROWN & WILLIAMSON OF EXTENDING CREDIT
24 TERMS FROM 14 TO 30 DAYS?

25 A. THAT'S CORRECT.

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3

1

Q. FOR CUSTOMERS?

2

A. THAT'S CORRECT.

3

MR. PHILLIPS: I GET IT. I UNDERSTAND

4

OT.

5

Q. IS IT THE CASE THAT THE NATURE OF

6

THAT COST IS THAT BROWN & WILLIAMSON MAY HAVE TO WAIT

7

LONGER TO GET ITS MONEY UNDER 30-DAY TERMS THAN UNDER

8

14 DAY TERMS?

9

A. SAY THAT AGAIN, PLEASE.

10

Q. COULD YOU REPEAT THE QUESTION, KITTY?

11

(WHEREUPON, THE REPORTER THEN READ

12

THE RECORD.)

13

Q. IS THE ASSUMPTION THAT CUSTOMERS WILL

14

WAIT LONGER TO PAY UNDER 30 DAY TERMS THAN UNDER 14 DAY

15

TERMS?

16

A. THEY WILL WAIT 30 DAYS.

17

Q. AS OPPOSED TO WAITING 14 DAYS?

18

A. YES.

19

Q. AND THAT WILL BE 16 DAYS THAT BROWN &

20

WILLIAMSON DOES NOT HAVE THE MONEY AS OPPOSED TO HAVING

21

IT AFTER 14 DAYS IF IT ONLY HAD 14 DAY TERMS; IS THAT

22

CORRECT?

23

A. I'M NOT SURE WITHOUT LOOKING AT THE

24

DETAILS HOW THIS WAS CALCULATED.

25

Q. BUT CONCEPTUALLY SPEAKING, ISN'T THAT

206

1 THE BASIS OF THE COST THAT'S BEING CALCULATED HERE?

2 A. OKAY. I CANNOT REMEMBER CONCEPTUALLY
3 HOW THIS WAS PUT TOGETHER, AND I DON'T WANT TO
4 CONTRADICT THIS CALCULATION WITHOUT LOOKING AT OR
5 THINKING THROUGH THE DETAILS OF IT.

6 Q. CAN YOU TRY TO EXPLAIN TO ME AGAIN
7 WHY 11 DAYS WAS USED RATHER THAN 16 DAYS IN CALCULATING
8 THE TOTAL INCREMENTAL COST TO BROWN & WILLIAMSON?

9 (DISCUSSION OFF THE RECORD.)

10 A. BOTTOM LINE IS I CAN'T FIGURE IT OUT
11 WITH -- I DON'T RECALL RIGHT NOW.

12 Q. OKAY.

13 A. THAT'S THE BOTTOM LINE.

14 Q. WE'LL ASK MR. BACON.

15 A. GOOD.

16 Q. LET'S MARK AS WILSON EXHIBIT 45 A ONE-
17 PAGE DOCUMENT ENTITLED 1985 PROJECTED GENERIC TRADING
18 PROFIT DOCUMENTS NUMBER 150008.

19 (WHEREUPON, WILSON DEPOSITION EXHIBIT
20 45 WAS MARKED FOR IDENTIFICATION.)

21 Q. CAN YOU IDENTIFY THIS DOCUMENT, MR.
22 WILSON?

23 A. IT'S A 1985 PROJECTED GENERIC TRADING
24 PROFIT SUMMARY SCHEDULE.

25 Q. DO YOU KNOW WHO PREPARED THIS

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1 DOCUMENT?

2 A. IT WAS A JOINT EFFORT BETWEEN MY
3 STAFF AND MR. BACON.

4 Q. CAN YOU TELL ME WHAT PORTIONS OF THIS
5 WERE PREPARED BY YOUR STAFF?

6 A. ABOVE THE LINE OR STOPPING AT TRADING
7 PROFIT WOULD HAVE BEEN PREPARED BASED ON A CERTAIN
8 SELECTED ASSUMPTIONS PROVIDED TO US BY MR. BACON.

9 Q. DID YOU PREPARE THE 1984 ACTUAL
10 FIGURES THAT APPEAR ON THIS PAGE, YOU OR YOUR STAFF?

11 A. YES.

12 Q. WHERE DID YOU GET THE SALES UNITS
13 FIGURES FROM?

14 A. AG-90.

15 Q. WHERE DID YOU GET THE GROSS PAID SALES
16 FIGURES FROM?

17 A. VARIABLE MARGIN REPORT OF SOME SORT.
18 I'M NOT SURE WHAT EXACTLY WHAT REPORT WE WOULD HAVE
19 GOTTEN IT FROM.

20 Q. DID YOU GET IT FROM THE COST SHEETS?

21 A. IT SHOULD BE REFERENCED ON THE COST
22 SHEETS.

23 Q. SHOULD THE FIGURES MATCH UP WITH THE
24 COST SHEETS IN ANY EVENT?

25 A. I CAN'T THINK OF A REASON WHY IT

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1 WOULDNT.

2 Q. WHERE DID YOU GET THE TOTAL VARIABLE
3 COST FIGURES FROM AND THE COMPONENTS THAT GO INTO THAT
4 EXCISE TAX, VARIABLE MANUFACTURING COST AND FREIGHT?

5 A. I DONT KNOW THE EXACT SOURCE OF THAT
6 DATA.

7 Q. DID YOU GET IT FROM THE COST SHEETS?

8 A. I DONT KNOW WHETHER WE GOT IT FROM
9 THE COST SHEETS OR NOT.

10 Q. SHOULD IT MATCH UP WITH THE COST
11 SHEETS?

12 A. IT SHOULD.

13 Q. WHERE DID YOU GET THE VARIABLE MARGIN
14 FIGURE FROM?

15 A. THATS A CALCULATED NUMBER DIFFERENCE
16 BETWEEN GROSS PAID SALES AND TOTAL VARIABLE COSTS.

17 Q. WHERE DID YOU GET THE SPECIFIC
18 MARKETING SPEND FIGURES?

19 A. I WOULD ASSUME WE GOT THEM FROM THE
20 BUDGET REPORTS.

21 Q. THE SALES PROMOTION SPECIFIC BUDGET
22 REPORTS?

23 A. YES, SIR.

24 Q. ARE THERE ANY SALES PROMOTION
25 SPECIFIC EXPENSES INCLUDED IN THE BUDGET REPORTS THAT

1 ARE NOT INCLUDED UNDER SPECIFIC MARKETING SPEND ON THIS
2 DOCUMENT?

3 A. I DON'T RECALL.

4 Q. DID YOU GET THE BRAND CONTRIBUTION
5 NUMBER BY SUBTRACTING SPECIFIC MARKETING SPEND FROM
6 VARIABLE MARGIN?

7 A. THAT'S CORRECT.

8 Q. WHERE DID YOU GET THE FIXTURES
9 EXPENSES FOR 1984 ACTUAL?

10 A. THAT'S AN ASSUMPTION USING THE 35 CENT
11 PER M RATE SUPPORT LEVEL RATE.

12 Q. DOES THE DISTRIBUTOR REBATES LINE
13 ITEM HERE REFER TO THE D.A.I.P. PROGRAM?

14 A. THAT'S CORRECT.

15 Q. AND THAT'S WHY THERE ARE NO ENTRIES
16 FOR 1984 BECAUSE THAT PROGRAM WAS NOT INSTITUTED UNTIL
17 1985?

18 A. THAT'S CORRECT.

19 Q. WHERE DID YOU GET THE DIRECT SELLING
20 COSTS FIGURE?

21 A. THAT WAS AN ESTIMATE PROVIDED TO US BY
22 DON CHRISTENSEN, I BELIEVE.

23 Q. WHAT KINDS OF EXPENSES ARE INCLUDED
24 UNDER THE CATEGORY DIRECT SELLING COSTS?

25 A. BASICALLY SALARIES.

1 Q. WHOSE SALARIES?

2 A. SALARIES FOR APPROXIMATELY 4 TO 5
3 PEOPLE WHO WERE SPECIFICALLY ASSIGNED TO GENERICS.

4 Q. WHAT KINDS OF DUTIES DID THESE PEOPLE
5 PERFORM WITH RESPECT TO GENERICS IN 1984?

6 A. I DON'T KNOW.

7 Q. WERE THEY SALES MANAGERS?

8 A. THEY WERE CORPORATE OFFICE PEOPLE.

9 THE MAJORITY OF THEM WERE CORPORATE OFFICE PEOPLE.

10 Q. DO YOU KNOW HOW MANY PEOPLE THERE
11 WERE EXACTLY?

12 A. NOT EXACTLY, NO.

13 Q. THESE PEOPLE DID ONLY GENERIC WORK?

14 A. TO THE BEST OF MY KNOWLEDGE.

15 Q. DO YOU KNOW WHERE THE INCREMENTAL
16 MANUFACTURING OVERHEADS NUMBERS COMES FROM?

17 A. IT'S AN EXTENSION OF THE RATE. THE
18 RATE WAS PROVIDED TO US BY MR. BACON.

19 Q. AND THAT WAS MULTIPLIED BY THE VOLUME
20 TO GET THE TOTAL DOLLAR FIGURE?

21 A. YES, SIR.

22 Q. WHERE DID THE PROFIT SHARING NUMBERS
23 COME FROM?

24 A. THERE AGAIN, THAT'S A CALCULATED
25 NUMBER WHICH IT WOULD REPRESENT, I THINK APPROXIMATELY 6

1 PERCENT OF CONTRIBUTION AFTER DEDUCTING NON-SPECIFIC AND
2 MANUFACTURING OVERHEADS BUT BEFORE PROFIT SHARING.

3 Q. WHY DID YOU USE 6 PERCENT AS OPPOSED
4 TO 3 PERCENT??

5 A. BECAUSE IN 1984 THE PROFIT SHARING
6 RATE WAS 6 PERCENT WHEREAS IN '85 IT'S 3 PERCENT.

7 Q. ARE THE TRADING LOSS FIGURES THAT
8 APPEAR UNDER PROFIT SHARING FOR 1984 ACTUALLY DERIVED BY
9 SUBTRACTING FROM BRAND CONTRIBUTION NON-SPECIFIC
10 MARKETING SPEND, INCREMENTAL MANUFACTURING OVERHEADS,
11 GIVING A CREDIT FOR PROFIT SHARING?

12 MR. PHILLIPS: YOU ARE TALKING ABOUT
13 THE TRADING PROFIT LOSS?

14 Q. YES, THE TRADING LOSS FIGURES FOR 1984
15 ACTUAL.

16 A. TRADING PROFIT LOSS IS ARRIVED AT BY
17 DEDUCTING THOSE ITEMS YOU SAID.

18 Q. AND PLUGGING BACK IN A CREDIT FOR
19 NEGATIVE PROFIT SHARING IN EFFECT?

20 A. YES.

21 Q. WHY DID YOU DO THAT, MR. WILSON?

22 A. WHY DID I DO WHAT?

23 Q. WHY DID YOU PLUG IN A NEGATIVE AMOUNT
24 FOR PROFIT SHARING?

25 A. IT'S JUST BASICALLY THE MECHANICS OF

1 WHAT WE GO THROUGH IN TERMS OF CALCULATING -- JUST AN
2 ASSUMPTION USED IN CALCULATING THIS PARTICULAR TRADING
3 PROFIT LOSS.

4 Q. CAN YOU TELL ME WHERE THE FIGURES FOR
5 INTEREST (10 PERCENT) ON WORKING CAPITAL INVESTMENT COME
6 FROM THAT APPEAR UNDER THE 1984 ACTUAL FIGURES ON THIS
7 DOCUMENT?

8 A. NO, SIR. I CAN'T SPEAK TO THOSE OTHER
9 THAN THE FACT THEY WERE PROVIDED TO US BY MR. BACON.

10 Q. LET ME MARK AS WILSON EXHIBIT 46, 2-
11 PAGE DOCUMENT, DOCUMENT NUMBERS 171666 AND 667.

12 (WHEREUPON, WILSON DEPOSITION EXHIBIT
13 46 WAS MARKED FOR IDENTIFICATION.)

14 Q. CAN YOU IDENTIFY THIS DOCUMENT FOR ME,
15 MR. WILSON?

16 A. IT JUST SEEMS TO BE SOME FORM OF A
17 WORK SHEET OUTLINING VOLUMES FOR THE REBATE CATEGORIES.

18 Q. DID YOU PREPARE THE 2 PAGES OF THIS
19 EXHIBIT, MR. WILSON?

20 A. LOOKS LIKE MY HANDWRITING, YES.

21 Q. THOSE ARE YOUR INITIALS THAT APPEAR ON
22 EACH OF THESE 2 PAGES, ONE IN THE LEFT HAND CORNER AND
23 ONE IN THE RIGHT-HAND CORNER?

24 A. YES, THE WRITING IN THE MIDDLE WOULD
25 BE MR. BACON'S WRITING.

1 Q. YOU SUBMITTED THE FIRST PAGE OF THIS
2 EXHIBIT TO MR. BACON?

3 A. YES.

4 Q. LOOK AT THE SECOND PAGE MR. WILSON.
5 CAN YOU TELL ME WHERE THE OVERHEADS/P/S DOLLARS RATES
6 COME FROM?

7 MR. PHILLIPS: YOU MEAN THE RATE PER M
8 UNDERNEATH "OVERHEAD/P/S DOLLARS"?

9 Q. YES.

10 A. BY LOOKING AT THIS DOCUMENT I CAN'T
11 TELL YOU EXACTLY HOW WE GOT THERE.

12 Q. WHAT DOES P/S REFER TO?

13 A. PROFIT SHARING. I SUSPECT WHAT IT IS
14 IS THE OVERHEAD RATE AND THE PROFIT SHARING CATEGORY
15 COMBINED.

16 Q. IS IT THE CASE, MR. WILSON, THAT THESE
17 CALCULATIONS ASSUME NO TRADING PROFIT?

18 MR. PHILLIPS: OBJECTION.

19 A. IT'S, I THINK, THE INTENT OF THIS
20 CALCULATION IS TO IDENTIFY WHAT MONEYS ARE AVAILABLE FOR
21 SPECIAL STICKERING OFFERS ASSUMING THAT WE WOULD BE AT A
22 ZERO TRADING PROFIT POSITION.

23 Q. DO YOU KNOW WHAT PORTION OF THE
24 OVERALL 32 CENTS PER THOUSAND FOR OVERHEADS AND PROFIT
25 SHARING IS ATTRIBUTABLE TO PROFIT SHARING?

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1 A. NOT BY LOOKING AT THIS SCHEDULE.
2 Q. CAN YOU TELL ME APPROXIMATELY?
3 A. I WOULD BE GUESSING.
4 Q. DID YOU SUBMIT PAGE 2 OF THIS EXHIBIT
5 TO MR. BACON AS WELL?
6 A. I DON'T RECALL.
7 (DISCUSSION OFF THE RECORD.)
8 Q. LET'S MARK AS EXHIBIT 47 A DOCUMENT
9 NUMBER 172151.
10 (WHEREUPON, WILSON DEPOSITION EXHIBIT
11 47 WAS MARKED FOR IDENTIFICATION.)
12 Q. CAN YOU IDENTIFY THIS DOCUMENT, MR.
13 WILSON?
14 A. IT'S A DOCUMENT, BROWN & WILLIAMSON
15 TOBACCO CORPORATION COMPARATIVE GENERIC TRADING PROFIT
16 ESTIMATE PREPARED BY JERRY BRUMLEVE ON 7-12-'85.
17 Q. DO THE 1984 NUMBERS THAT APPEAR HERE
18 MATCH UP WITH THE 1984 TRADING PROFIT NUMBERS THAT WE
19 SAW PREVIOUSLY IN WILSON EXHIBIT 45?
20 A. NO, SIR.
21 Q. CAN YOU TELL ME WHERE THEY ARE NOT
22 CONSISTENT?
23 MR. PHILLIPS: DO YOU WANT HIM TO
24 COMPARE THE NUMBERS OR --
25 A. THEY ARE NOT CONSISTENT AT FIXTURES.

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1 Q. IS THAT BECAUSE THE FIXTURE NUMBER
2 THAT APPEARS ON MR. BRUMLEVE'S CALCULATION REFLECTS THE
3 AMOUNT BOOKED FOR FIXTURES IN 1984 WHEREAS THE FIGURE ON
4 THE PREVIOUS EXAMPLE REFLECTS FIXTURES AT A RATE OF 35
5 CENTS PER THOUSAND?

6 A. THAT'S CORRECT. JUST A DIFFERENT
7 ASSUMPTION.

8 Q. ARE THERE ANY OTHER DIFFERENCES
9 BETWEEN THE 2 TRADING PROFIT CALCULATIONS?

10 A. OBVIOUSLY WITH THAT CHANGE, THAT
11 IMPACTS THE PROFIT SHARING CALCULATION.

12 Q. ANY OTHER CHANGES?

13 A. I DON'T SEEM TO BE ABLE TO PICK ANY
14 OTHER UP.

15 Q. ARE THE PRODUCT DEVELOPMENT EXPENSES
16 REFEPRED TO IN FOOTNOTES A AND B CONTAINED IN THE
17 ADVERTISING MEDIA, NEW PRODUCT DEVELOPMENT REPORTS THAT
18 WE LOOKED AT PREVIOUSLY?

19 A. I BELIEVE SO.

20 Q. BUT THEY ARE NOT INCORPORATED INTO
21 ANY CALCULATION TRADING PROFIT FOR GENERICS ON MR.
22 BRUMLEVE'S CALCULATIONS; IS THAT CORRECT?

23 A. IT'S NOT INCORPORATED INTO THIS
24 PARTICULAR CALCULATION.

25 Q. YES, CORRECT, NOR IS IT INCORPORATED

1 INTO THE CALCULATION OF TRADING PROFIT THAT APPEARS FOR
2 1984 AND WILSON 45; IS THAT CORRECT?

3 A. THAT'S CORRECT.

4 Q. LET'S MARK AS WILSON EXHIBIT 48 A ONE-
5 PAGE DOCUMENT ENTITLED GENERICS, JANUARY TO MARCH 1985
6 PROFITABILITY DATED 4-12-'85, DOCUMENT NUMBER 17216
7 SOMETHING AND I CAN'T MAKE OUT THE LAST NUMBER.

8 (WHEREUPON, WILSON DEPOSITION EXHIBIT
9 48 WAS MARKED FOR IDENTIFICATION.)

10 Q. CAN YOU IDENTIFY THIS DOCUMENT, MR.
11 WILSON?

12 A. IT'S A GENERICS JANUARY THROUGH MARCH
13 1985 PROFITABILITY SUMMARY OF TRADING PROFIT.

14 Q. DO YOU KNOW WHO PREPARED THIS
15 DOCUMENT?

16 A. NO, SIR, I DON'T RECALL.

17 Q. HAVE YOU EVER SEEN IT BEFORE?

18 A. YES, SIR.

19 Q. UNDER WHAT CIRCUMSTANCES DID YOU SEE
20 IT?

21 A. I DON'T RECALL THE CIRCUMSTANCES.

22 Q. DO YOU KNOW WHAT THE REFERENCE IS TO
23 THE COLUMN JANUARY-MARCH "BOOKS"?

24 A. THAT THE ASSUMPTIONS USED TO GENERATE
25 THE TRADING PROFIT TOTAL THERE WAS BASED UPON NUMBERS

1 THAT WERE BOOKED AT THAT POINT IN TIME THROUGH BRAND
2 CONTRIBUTION.

3 Q. WHAT ABOUT THE NUMBERS THAT APPEAR
4 AFTER BRAND CONTRIBUTION UNDER THAT COLUMN?

5 A. FIXTURES COULD BE BOOKED. AS TO THE
6 OTHER ITEMS I'M NOT SURE ABOUT WHETHER THEY WERE BOOKED
7 OR WHETHER THEY WERE JUST ASSUMED AMOUNTS.

8 Q. AND THAT COLUMN RESULTS IN A TRADING
9 LOSS OF \$67,000 FOR THE FIRST 3 MONTHS OF 1985; IS THAT
10 CORRECT?

11 MR. PHILLIPS: OBJECTION.

12 A. RESULTS IN A TRADING PROFIT LOSS OF
13 \$67,000, WHICH IS NOT THE SAME THING AS A TRADING LOSS.

14 Q. WHAT IS THE DIFFERENCE BETWEEN A
15 TRADING PROFIT LOSS AND A TRADING LOSS?

16 A. THERE IS A LOT OF THINGS THAT COULD GO
17 INTO A TRADING LOSS THAT'S NOT INCORPORATED INTO THESE
18 ASSUMPTIONS. ALL THIS CALCULATION IS DOING IS TRYING TO
19 MEASURE TRADING PROFIT LOSS AS WE --

20 Q. BUT THIS CALCULATION ASSUMES THERE IS
21 IN FACT NO PROFIT THAT RESULTS UNDER THE CATEGORY
22 TRADING PROFIT FOR THIS PERIOD?

23 MR. PHILLIPS: OBJECTION.

24 A. WE'RE NOT TRYING TO DEFINE
25 PROFITABILITY AT ALL, ONLY TRADING PROFIT.

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1 PROFITABILITY DEPENDS ON ONE'S INTERPRETATION. IT CAN
2 BE DEFINED. OTHER VARIABLES COULD AFFECT PROFITABILITY
3 NOT REFLECTED ON THIS SCHEDULE HERE.

4 Q. WHEN YOU NET THESE NUMBERS OUT YOU
5 COME OUT WITH A NEGATIVE NUMBER?

6 A. I COME OUT WITH A NEGATIVE TRADING
7 PROFIT NUMBER.

8 Q. DO YOU KNOW WHAT THE COLUMN JANUARY-
9 MARCH "D.P.C." IS DESIGNED TO REFLECT?

10 A. I'M ASSUMING THAT WOULD -- I
11 SHOULDN'T ASSUME -- THAT TELLS ME JANUARY THROUGH MARCH
12 IS A DON CHRISTENSEN INFORMATION OR ASSUMPTIONS USED.

13 Q. DO YOU KNOW WHY MR. CHRISTENSEN'S
14 INFORMATION OR ASSUMPTIONS OR AT LEAST SOME OF THEM ARE
15 DIFFERENT FROM THE BOOKS?

16 A. NO, SIR, I DON'T RECALL THAT.

17 Q. AND THE THIRD COLUMN HERE IS DESIGNED
18 TO REFLECT THE JANUARY THROUGH MARCH BUDGET?

19 A. YES, SIR.

20 Q. FOR 1985?

21 A. YES, SIR, BASED ON THESE ASSUMPTIONS.

22 Q. AND A NEGATIVE TRADING PROFIT OR A
23 TRADING PROFIT LOSS IS ARRIVED AT UNDER EACH OF THESE 3
24 COLUMNS; IS THAT CORRECT?

25 A. THAT'S CORRECT. BASED ON THESE

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1 ASSUMPTION.

2 Q. MARK FOR IDENTIFICATION WILSON EXHIBIT
3 49, WHICH IS A MULTI-PAGE DOCUMENT, NUMBERS 171782,
4 786, 789, 795, 797, 799, 802, 804, 800, 796, 679, 791,
5 783, 784, 785, 801, 787, 788, 792, 805, 806, 790, 762,
6 754, 755, 756, 757, 758, 759, 761, 763, 760, 765, 764,
7 766 AND 834.

8 (WHEREUPON, WILSON DEPOSITION EXHIBIT
9 49 WAS MARKED FOR IDENTIFICATION.)

10 MR. PHILLIPS: IS THERE ANY PARTICULAR
11 SUBJECT THESE RELATE TO?

12 MR. CONDREN: THESE RELATE TO GENERIC
13 RATE OF RETURN ANALYSES.

14 A. OKAY.

15 Q. CAN YOU IDENTIFY ALL OR ANY PART OF
16 THIS DOCUMENT, MR. WILSON?

17 A. THE FIRST PAGE IS --

18 Q. I UNDERSTAND IT'S A NUMBER OF
19 DIFFERENT PAGES.

20 A. -- SCENARIO ONE GENERIC PRODUCT
21 PROJECTED INCOME STATEMENTS. IT COVERS A 5-YEAR PERIOD.

22 THE SECOND PAGE IS SCENARIO 2, SAME
23 TITLE.

24 THIRD PAGE IS SCENARIO 3, SAME TITLE.

25 4TH PAGE IS ANOTHER SCENARIO ONE.

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1 NEXT PAGE IS SCENARIO 2, A LOT OF
2 SCENARIOS WITH SUPPORTING R.O.I. CALCULATIONS.

3 Q. DO YOU KNOW WHO PREPARED THESE
4 DOCUMENTS, MR. WILSON?

5 A. AS TO THE SPECIFIC INDIVIDUAL, NO,
6 SIR, I DO NOT KNOW.

7 Q. DO YOU KNOW WHAT DEPARTMENT PREPARED
8 THEM?

9 A. IT'S MY DEPARTMENT, BUDGET DEPARTMENT.

10 Q. DO YOU KNOW WHETHER MISS WILLINGHAM
11 PREPARED ALL OR ANY OF THESE?

12 A. IT'S VERY LIKELY GIVEN THE TIME PERIOD
13 THAT WE ARE TALKING ABOUT THAT GWEN WILLINGHAM WAS
14 INVOLVED IN THE R.O.I. CALCULATIONS.

15 Q. IF YOU LOOK AT PAGE 171798, WHICH IS
16 SECOND PAGE THAT APPEARS IN THE BACK UP TO THE
17 SCENARIOS, ARE THOSE MISS WILLINGHAM'S INITIALS THAT
18 APPEAR ON THAT PAGE?

19 A. THAT'S CORRECT.

20 Q. DO YOU BELIEVE MISS WILLINGHAM WOULD
21 BE ABLE TO EXPLAIN TO ME HOW THESE NUMBERS WERE
22 CALCULATED AND WHAT ASSUMPTIONS WERE MADE IN ARRIVING AT
23 THESE FIGURES?

24 A. I CAN'T TELL YOU WHAT MISS WILLINGHAM
25 WILL KNOW ABOUT THIS.

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1 Q. CAN YOU TELL ME HOW THE INTERNAL RATE
2 OF RETURN FIGURES ARE ARRIVED AT IN THE SCENARIOS THAT
3 APPEAR AT THE BEGINNING OF THIS EXHIBIT?

4 MR. PHILLIPS: IN EACH ONE OF THEM?

5 Q. GENERALLY HOW THOSE NUMBERS ARE
6 ARRIVED AT, 18 PERCENT ON THE FIRST PAGE, 17.9 ON THE
7 SECOND?

8 A. THERE IS MORE THAN LIKELY A SUPPORT
9 DOCUMENT ATTACHED THAT WOULD SHOW YOU HOW THE P.O.I.
10 CALCULATION WAS ARRIVED AT.

11 Q. YOU CAN'T TELL ME JUST BY LOOKING AT
12 THE TOP PAGE?

13 A. NO, SIR.

14 Q. OKAY. LET'S LOOK AT THE FIRST BACK UP
15 PAGE TO THE SCENARIO ONE GENERIC RATE OF RETURN ANALYSIS
16 AS OF 2-22-'84.

17 CAN YOU TELL ME WHAT THE NUMBERS IN
18 THE WORKING RATE COLUMN REPRESENT?

19 A. WORKING CAPITAL RATE, OKAY. I CAN'T
20 TELL YOU ALL THE COMPONENTS OF IT BUT THE BIGGEST
21 COMPONENTS OF IT IS THE LEAF COST INVOLVED WITH
22 SUPPORTING VOLUMES. THE RATES ARE PROVIDED TO US BY THE
23 COST DEPARTMENT.

24 Q. WHO PROVIDED YOU WITH THESE RATES FOR
25 THESE CALCULATIONS; DO YOU RECALL?

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1 A. I DON'T KNOW.

2 Q. DO YOU KNOW WHAT THE NUMBERS IN THE
3 CAPITAL AMOUNT COLUMN ARE DESIGNED TO REPRESENT?

4 MR. PHILLIPS: I THINK THAT'S WORKING
5 CAPITAL RATE AND AMOUNT.

6 Q. I'M SORRY.

7 A. THAT'S WORKING CAPITAL RATE.

8 Q. EXCUSE ME, WORKING CAPITAL IS THE
9 HEADING THEN THERE IS RATE AND AMOUNT UNDER THAT?

10 A. YES, SIR.

11 Q. I SEE. HOW ARE THOSE AMOUNT FIGURES
12 DERIVED?

13 A. WITHOUT TESTING THIS CALCULATION, I
14 WOULD HAVE -- I'M GUESSING HOW IT'S CALCULATED BUT IT'S
15 BASED ON THE RATE TIMES THE PROJECTED VOLUME FOR THE
16 NEXT YEAR.

17 Q. I SEE. WHAT ARE THE NUMBERS IN THE
18 INCREMENTAL INFLOWS/(OUTFLOWS) COLUMN DESIGNED TO
19 REPRESENT?

20 A. THERE AGAIN, THAT'S THE DIFFERENCE
21 BETWEEN YOUR WORKING CAPITAL AND YOUR AFTER TAX AND
22 PROFIT SHARING NUMBER --

23 Q. I SEE.

24 A. -- COLUMN.

25 Q. SO IN THE FIRST CASE THERE IT'S

1 NEGATIVE BECAUSE THE WORKING CAPITAL AMOUNT IS THAT MUCH
2 GREATER THAN THE AFTER TAX PROFIT?

3 A. THAT'S CORRECT.

4 Q. WHAT IS THE DIS. COLUMN DESIGNED TO
5 REPRESENT?

6 A. THAT'S JUST A DISCOUNT FACTOR SET UP
7 IN THE PROGRAM TO GIVE YOU NET PRESENT VALUE.

8 Q. IN OTHER WORDS, THE NEGATIVE 99237 IS
9 MULTIPLIED BY .83 TO GET NEGATIVE 82127?

10 A. THAT'S CORRECT.

11 Q. WHERE DO THOSE DISCOUNT NUMBERS COME
12 FROM?

13 A. FROM THE PROGRAM.

14 Q. DO YOU KNOW HOW THE NUMBERS AT THE TOP
15 LEFT-HAND CORNER OF THE PAGE ARE DERIVED, IRRI AND NPV?

16 A. THAT IS THE EFFECT OF THIS SET OF
17 NUMBERS RUNNING THROUGH THE RETURN ON INVESTMENT
18 CALCULATION AND CALCULATES THE RETURN ON INVESTMENT
19 PERCENTAGE AND NET PRESENT VALUE FACTOR.

20 Q. WHEN THESE ANALYSES WERE DONE WERE
21 THEY SUBMITTED TO MR. BACON?

22 A. I BELIEVE THEY WERE SUBMITTED TO MR.
23 TUCKER. I BELIEVE THEY WERE INITIATED BY MR. TUCKER.

24 Q. LET'S MARK AS OUR LAST EXHIBIT OF THE
25 DAY WILSON EXHIBIT 50, WHICH IS THE TOBACCO GROUP

1 FINANCIAL REPORT FOR SEPTEMBER 1985, NUMBERS 181852
2 THROUGH 181901 WITH THE LAST 2 PAGES HAVING BEEN
3 REDACTED.

4 A. IT'S A FINANCIAL REPORT.

5 Q. IS THIS THE TOBACCO GROUP FINANCIAL
6 REPORT THAT YOU'VE PREVIOUSLY IDENTIFIED, MR. WILSON, AS
7 BEING^u DISTRIBUTED TO VARIOUS INDIVIDUALS COMPRISING
8 SENIOR MANAGEMENT AT BROWN & WILLIAMSON?

9 A. THAT'S CORRECT.

10 Q. ^o IS IT DISTRIBUTED TO MR. BACON ON A
11 MONTHLY BASIS?

12 A. YES, SIR.

13 Q. DOES MISS WILLINGHAM RECEIVE A COPY
14 OF THIS?

15 A. YES.

16 Q. ALL RIGHT. IN THE INTEREST OF TIME I
17 WON'T ASK MR. WILSON ANY QUESTIONS ABOUT THIS BECAUSE I
18 BELIEVE WE CAN FIND OUT WHATEVER WE NEED TO KNOW
19 REGARDING THESE DOCUMENTS FROM OTHER INDIVIDUALS WHO ARE
20 SOON TO BE DEPOSED SUCH AS MISS WILLINGHAM AND MR.
21 BACON, AND I WON'T ASK MR. WILSON ANY MORE^o QUESTIONS
22 REGARDING ANY OF THE OTHER EXHIBITS, PARTICULARLY
23 EXHIBIT 49, BUT I WOULD LIKE TO RESERVE THE RIGHT TO
24 CONTINUE THE EXAMINATION OF MR. WILSON IF WE ARE UNABLE
25 TO GET THE INFORMATION WE NEED FROM THOSE INDIVIDUALS^u

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1 THAT WE ARE GOING TO BE DEPOSING IN THE FUTURE.

2 MR. PHILLIPS: I TAKE IT IF IT LOOKS
3 LIKE MR. WILSON IS THE ONE THAT KNOWS THOSE ANSWERS

4
5 MR. CONDREN: RIGHT, IF WE CANNOT GET
6 THOSE ANSWERS WE NEED FROM SOMEONE ELSE.

7 MR. PHILLIPS: AND IT APPEARS MR.
8 WILSON IS THE ONE WHO KNOWS THEM?

9 MR. CONDREN: YES, CORRECT, I WOULD
10 LIKE TO CONTINUE THE EXAMINATION OF MR. WILSON.

11 MR. PHILLIPS: I'LL TAKE YOUR REQUEST
12 UNDER ADVISEMENT, BUT I REALLY APPRECIATE IT. AS I
13 SAID, IT'S BEEN A LONG DAY. WE EXPECTED ONE DAY AND I
14 EXPECTED GENERAL WORKING HOURS, WHICH I THINK YOU'VE
15 TRIED VERY WELL AND VERY ADMIRABLY TO COMPLY WITH AND,
16 YOU KNOW, I'LL TAKE IT UNDER ADVISEMENT.

17 MR. CONDREN: ALL RIGHT. I HOPE THAT
18 WE WILL NOT HAVE TO RECALL MR. WILSON FOR THAT PURPOSE,
19 BUT I JUST WANT TO RESERVE THAT RIGHT BECAUSE I WOULD
20 HAVE STAYED LATER TONIGHT IF YOU WERE AVAILABLE AND MR.
21 WILSON WERE AVAILABLE, AND I JUST DON'T WANT TO PUT
22 MYSELF IN JEOPARDY OF NOT GETTING THE INFORMATION I NEED
23 TO GET --

24 MR. PHILLIPS: I UNDERSTAND.

25 MR. CONDREN: -- BECAUSE I'VE AGREED

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1 TO ADJOURN THE DEPOSITION AT THIS POINT BECAUSE YOU HAVE
2 TO GET BACK TO NEW YORK, WILL.

3 MR. PHILLIPS: ALSO MR. WILSON HAS
4 PLANS THIS EVENING AS WELL.

5 MR. CONDREN: FINE.

6 MR. PHILLIPS: THAT'S FINE, JIM.
7 AGAIN I'LL TAKE IT UNDER ADVISEMENT, WE'LL SEE WHAT
8 HAPPENS. WE'LL CROSS THAT BRIDGE WHEN WE COME TO IT.

9 MR. CONDREN: I HAVE MADE AN EFFORT TO
10 GO EXPEDITIOUSLY AS I COULD.

11 MR. PHILLIPS: CERTAINLY YOU HAVE.

12 MR. CONDREN: AND ONLY TO ASK MR.
13 WILSON THE QUESTIONS I THOUGHT HE WOULD BE ABLE TO HELP
14 ME WITH.

15 MR. PHILLIPS: THAT'S FINE. YOU DON'T
16 NEED TO EXPLAIN.

17 MR. CONDREN: ONE OTHER THING. JUST
18 AS A MATTER OF COURSE I WOULD LIKE TO RESERVE THE RIGHT
19 TO CONTINUE MR. WILSON'S DEPOSITION PENDING THE
20 RESOLUTION OF THE VARIOUS MOTIONS THAT ARE NOW BEFORE
21 THE COURT REGARDING COSTS AND OTHER MATTERS.

22 MR. PHILLIPS: NEVER THOUGHT THAT YOU
23 WOULD DO OTHERWISE.

24 LET'S DEEM THIS DEPOSITION
25 CONFIDENTIAL. PLEASE PUT CONFIDENTIAL ON IT SINCE IT

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1 CONTAINS VERY SENSITIVE AND CONFIDENTIAL MATERIAL.

2 * * * * *

3 (WHEREUPON, THE DEPOSITION WAS THEN

4 CONCLUDED AT THE HOUR OF 6:15 P.M.)

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I, THE UNDERSIGNED, THOMAS W. WILSON, DO HEREBY
CERTIFY THAT I HAVE READ THE FOREGOING DEPOSITION AND
THAT, TO THE BEST OF MY KNOWLEDGE, SAID DEPOSITION IS
TRUE AND ACCURATE (WITH THE EXCEPTION OF THE FOLLOWING
CORRECTIONS LISTED BELOW):

THOMAS W. WILSON

824 24485

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STATE OF _____

C
COUNTY OF _____

BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC WITHIN
AND FOR THE ABOVE-NAMED COUNTY AND STATE, ON THE _____
DAY OF _____, 1986, PERSONALLY APPEARED
THOMAS W. WILSON, AND ACKNOWLEDGED THE EXECUTION OF THE
FOREGOING DOCUMENT.

MY COMMISSION EXPIRES _____

824 24486

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STATE OF KENTUCKY

COUNTY OF JEFFERSON,

I, CATHERINE M. PATEN, NOTARY PUBLICS WITHIN AND FOR THE STATE AT LARGE AFORESAID, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, CORRECT AND COMPLETE TRANSCRIPT OF THE DEPOSITION OF THOMAS W. WILSON, TAKEN AT THE TIME AND PLACE SET OUT IN THE CAPTION, INCLUDING OBJECTIONS AND REMARKS OF COUNSEL; THAT THE DEPOSITION WAS TAKEN PURSUANT TO NOTICE; THAT THE SAID WITNESS WAS DULY SWORN BEFORE GIVING HIS DEPOSITION; THAT THE APPEARANCES WERE AS SET OUT IN THE CAPTION HEREOF; THAT THE SAID DEPOSITION WAS TAKEN DOWN BY ME IN STENOTYPY AND AFTERWARDS TRANSCRIBED ON A COMPUTER UNDER MY DIRECTION; THAT A REQUEST WAS MADE BY COUNSEL THAT THE DEPOSITION BE SUBMITTED TO THE WITNESS FOR READING AND SIGNATURE.

I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY OR COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY ANY OF THE PARTIES TO THE ACTION IN WHICH THIS DEPOSITION IS TAKEN, AND FURTHER; THAT I AM NOT A RELATIVE OR EMPLOYEE OF ANY ATTORNEY OR COUNSEL EMPLOYED BY THE PARTIES HERETO, OR FINANCIALLY INTERESTED IN THE ACTION.

GIVEN UNDER MY HAND AS NOTARY AFORESAID, THIS
THE 29TH DAY OF MAY, 1986.

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MY COMMISSION EXPIRES APRIL 2, 1987.

Catherine M. Paten, C.P., C.M.
CATHERINE M. PATEN, C.P., C.M.
COURT REPORTER AND NOTARY PUBLIC
STATE OF KENTUCKY AT LARGE

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